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P 1734

# THE BENGAL REGULATIONS,
# THE ACTS OF THE GOVERNOR-GENERAL IN COUNCIL,

AND

# THE FRONTIER REGULATIONS

MADE UNDER THE THIRTY-THIRD OF VICTORIA, CHAPTER THREE,

# APPLICABLE TO THE PUNJAB,

WITH NOTES AND AN INDEX,

BY

H. T. RIVAZ,

OF THE INNER TEMPLE, BARRISTER-AT-LAW.

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**Third Edition,—1834-1888.**

IN 3 VOLS.

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VOL. II.

CONTAINING ACTS FROM 1873 TO END OF 1882.

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and if probate of his will or letters of administration of his estate, or a certificate granted under Act No. XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), is not produced to the Secretary of such Bank within three months of the death of the said depositor, the Secretary of such Bank may pay the said sum of money to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased.

Payment to be a discharge.

5. Such payment shall be a full discharge from all further liability in respect of the money so paid:

Saving of right of executor.

But nothing herein contained precludes any executor or administrator, or other representative of the deceased, from recovering from the person receiving the same the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration.

Saving of right of creditor.

And any creditor or claimant against the estate of the deceased may recover his debt or claim out of the money paid under this Act, or the said Act No XXVI of 1855, to any person, and remaining in his hands unadministered in the same manner and to the same extent as if the latter had obtained letters of administration of the estate of the deceased.

Security for due administration.

6. The Secretary of any such Bank may take such security as he thinks necessary from any person to whom he pays any money under section four for the due administration of the money so paid,

and he may assign the said security to any person interested in such administration.

Power to administer oath.

7. For the purpose of ascertaining the right of the person claiming to be entitled as aforesaid, the Secretary of any such Bank may take evidence on oath or affirmation according to the law for the time being relating to oaths and affirmations.

Penalty for false statement.

Any person who, upon such oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed guilty of an offence under section one hundred and ninety-three of the Indian Penal Code.

Deposit when excluded in computing Court Fees.

8. Where the amount of the deposit belonging to the estate of a deceased depositor does not exceed one thousand rupees, such amount shall be excluded in computing the fee chargeable, under the Court Fees' Act, 1870, on the probate or letters of administration, or certificate, (if any), granted in respect of his property:

Provided that the person claiming such probate or letters or certificate shall exhibit to the Court authorised to grant the same a certificate of the amount of the deposit in any Government Savings Bank belonging to the estate of the deceased. Such certificate shall be signed by the Secretary of such Bank, and the Court shall receive it as evidence of the said amount.

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9. Nothing hereinbefore contained applies to money belonging to the estate of any European officer, non-commissioned officer, or soldier dying in Her Majesty's service in India, or of any European who, at the time of his death, was a deserter from the said service.

Act not to apply to deposits belonging to estates of European soldiers or deserters.

*Deposits belonging to Minors.*

10. Any deposit made by, or on behalf of, any minor, may be paid to him personally, if he made the deposit, or to his guardian for his use, if the deposit was made by any person other than the minor, together with the interest accrued thereon.

Payment of deposits to minor or guardian.

The receipt of any minor or guardian, for money paid to him uuder this section, shall be a sufficient discharge therefor.

11. All payments of deposits heretofore made to minors or their guardians by any Secretary of a Government Savings Bank shall be deemed to have been made in accordance with law.

Legalization of like payments heretofore made.

*Deposits belonging to Lunatics.*

12. If any depositor becomes insane or otherwise incapable of managing his affairs,

Payment of deposits belonging to lunatics.

and if such insanity or incapacity is proved to the satisfaction of the Secretary of the Bank in which his deposit may be,

such Secretary may, for time to time, make payments out of the deposit to any proper person,

and the receipt of such person, for money paid under this section, shall be a sufficient discharge therefor.

Where a Committee or Manager of the depositor's estate has been duly appointed, nothing in this section authorizes payments to any person other than such Committee or Manager.

*Deposits made by Married Women.*

13. Any deposit made by or on behalf of a married woman, or by or on behalf of a woman who afterwards marries, may be paid to her whether or not the Indian Succession Act, 1865, section four, applies to her marriage; and her receipt for money paid to her under this section shall be a sufficient discharge therefor.

Payment of married women's deposits.

*Rules.*

14. All certificates under section eight, and all payments under section ten, section twelve, or section thirteen, shall be respectively granted and made by the Secretary of the Bank subject to such rules consistent with this Act as the Governor-General in Council may, from time to time, prescribe.

Rules regulating certificates under section 8, and payments under section 10, 12, or 13.

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NOTES.—(*a*). Government District Savings Banks have now been merged in Post Office Savings Banks from 1st April 1886. See Government of India Resolution No. 33, dated 4th January 1886. Also Savings Banks of District Treasuries managed by the Banks of Bombay and Madras from 1st June 1886. See Resolution No. 1471, *Gazette of India* of 26th March 1886.

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(*b*).—RESOLUTION—By the Government of India, Department of Finance and Commerce. Read—

Resolution by the Government of India, Department of Finance and Commerce, No. 1199, dated 12th March 1886, prescribing revised rules for the guidance of depositors in Post Office Savings Banks.

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RESOLUTION.—In supersession of all existing orders on the subject, the Governor-General in Council is pleased to prescribe the following revised rules for the guidance of depositors in the Post Office Savings Banks:—

## RULES FOR THE GUIDANCE OF DEPOSITORS IN POST OFFICE SAVINGS BANKS IN INDIA.

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### DEFINITIONS.

1. For the purposes of these rules—

*Deposit* means money paid into a Post Office Savings Bank by, or on behalf of, a depositor.

*Depositor* means the person by whom, or on whose behalf, money is deposited.

*Account* means the account of a depositor in a Post Office Savings Bank.

*Balance* means the balance at credit of an account.

*Minor* means a person who has not completed the age of 18 years.

*Guardian* includes a father, or, if the father be dead, a mother, or if both parents be dead, and no guardian of the minor has been appointed by will or deed or under any enactment for the time being in force in British India, any adult relation of the minor with or by whom the minor is residing or being maintained.

*Postmaster-General* means the chief postal authority in any province or place to which the system of Post Office Savings Banks is extended.

### OBJECT OF GOVERNMENT IN ESTABLISHING POST OFFICE SAVINGS BANKS.

2. The object of Government in establishing Post Office Savings Banks is to provide a ready means for the deposit of savings, and so to encourage thrift. Savings Banks are not to be used for the purpose of keeping a current account, and the Comptroller, Post Office, is empowered to close an account should he have reason to believe that the depositor has used the Savings Bank for a purpose for which it was not intended.

### BUSINESS HOURS.

3. Post Office Savings Banks will be open for the transaction of business between the hours of noon and 4 P. M. every day, with the exception of Sundays, Christmas Day, New Year's Day, Good Friday, and the Queen's Birthday. These hours may, under the authority of the Postmaster-General, be altered to suit local circumstances.

### POSTAL OFFICIALS BOUND TO SECRECY.

4. The officers of the Postal Department engaged in the receipt or payment of deposits, are not allowed to disclose the name of any depositor, or the amount deposited or withdrawn by him, except to the Postmaster-General or other officers of the Department engaged in carrying out the provisions of these rules.

### PERSONS WHO MAY DEPOSIT MONEY.

5. Any person may deposit money in a Post Office Savings Bank (*a*) on his own behalf, or (*b*) on behalf of any minor relative, or (*c*) on behalf of any minor of whom he is the guardian.

*Explanation.*—Minors are allowed to deposit money in their own names, and women, whether married or single, are allowed to deposit money in their own names, but subject, in the case of married women, to the limitation laid down in Rule 6.

### LIMITATIONS AS TO OPENING ACCOUNTS.

6. (i) Any person may open an account in his own name, but may not have more than one such account open.

(ii) In addition to the account which a person may open in his own name, he may open any number of separate accounts on behalf of any minors related to him or of whom he is the guardian, provided that he shall not open more than one account on behalf of each such minor.

(iii) The fact that an account has been opened on behalf of a minor shall not prevent such minor from opening an account in his own name; nor shall the fact that a married man has an account in his own name prevent his wife from opening a separate account in her own name, provided the money to be deposited by her is her own property or earning.

NOTE A.—This rule is not meant to prevent any one from opening more than one *ex-officio* or public account (*vide* rule 10).

NOTE B.—Warrant and Non-Commissioned Officers and men serving in British Regiments can open accounts in Post Office Savings Banks, even though already depositors in Military Savings Banks.

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7. Deposits in trust are not allowed, and cannot be recognized.

8. Money cannot be deposited in the name of two or more persons jointly, provided that nothing in this rule shall prevent the deposit of money in the name of a known firm, or to the credit of a public account admissible under rule 10, including security deposit accounts.

9. The smallest sum of money that can be deposited at any time is four annas ; and no sum can be deposited that is not a multiple of four annas. A depositor cannot deposit a larger sum than five hundred rupees in all between the 31st March of any year and the 1st April of the following year.

NOTE A.—The limit of Rs. 500 is to be reckoned irrespective of withdrawals, that is, withdrawals are not to be deducted in applying it.

NOTE B.—The limit of Rs. 500 may be exceeded—

(1) in the case of Public Accounts ;

(2) in the case of Regimental and Police Accounts.

NOTE C.—When an account is transferred from one Savings Bank (whether Post Office or Presidency) to another, the amount so transferred shall not be included in calculating the limit of Rs. 500, save that portion of it deposited in the current year.

NOTE D.—Deposits made for the the purpose of immediate investment in Government Securities are uot reckoned in calculating the limit of Rs. 500.

NOTE E.—The limit of 4annas as the minimum sum that can be deposited, and the prohibition against depositing any sum that is not a multiple of 4 annas, do not apply to Public Accounts and Regimental and Police Accounts.

PUBLIC ACCOUNTS.

10. The following conditions govern the opening of "Public Accounts" :—

(*a*). Accounts may be opened by Officers of Government who have charge of money, as Secretaries or Managers of Dispensary, Church, or other religious Institution, School, Orphanage, Asylum, or Library Funds, or any funds contributed for purposes other than the private advantage or amusement of the contributors. Race, Racquet, Billiard, Mess, and similar funds, whose objects are of a private or personal nature, are not within this definition, and such accounts may not be admitted. Band Funds may be admitted if there is no private bank in the place.

(*b*). Secretaries and Managers of Dispensary and similar funds (as above mentioned), if they are not officers of Government and the institution is not subject to Government control, can be allowed Savings Bank accounts only if there is no respectable private bank of deposit in the place.

(*c*). Secretaries and Managers of Benevolent Funds (that is, funds formed by mutual subscription as an insurance against domestic misfortune) may be allowed accounts.

(*d*). Officers of Government or of public institutions, such as Railway and Steamer Companies, and the like, who collect subscriptions, voluntary or departmental, from their subordinates for departmental purposes, may be allowed accounts.

(*e*). Government officials and others who are required by Government to deposit security may be allowed a separate account for the security deposit only. The depositor will be required to sign a letter (in the prescribed form) addressed to the Postmaster undertaking not to make any claim on the Post Office Savings Bank for the principal of the sum deposited except with the express written sanction of the person referred to in the letter to whom the security is pledged ; not to object to the payment by the Bank of the principal to such person on his claiming it, and not to make any claim for interest after interest has ceased to accrue owing to the payment of the principal to such person. Interest on security deposits will be paid in the usual manner.

NOTE.—A person may open a security deposit account either on his own behalf or on behalf of another person. Security deposit accounts may be opened in the joint names of the persons undertaking the same work or contract. A person undertaking more than one work or contract at the same time may be allowed a separate account in respect of each. Security may be deposited in a single sum or in instalments.

(*f*). Public accounts of the kind specified above must be designated by a name indicating the object to which the money is devoted, as *A—pore Dispensary Fund, Workmen's Sick Fund, &c.* They are exempted from the rules fixing 4 annas as the smallest sum that can be deposited or withdrawn and prohibiting the deposit or withdrawal of any sum that is not a multiple of 4 annas, and also from the rule limiting the amount of deposit within one year to Rs. 500 (provided the deposit is the *bonâ fide*

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income of the fund), and interest will be paid upon their full balance, notwithstanding that it exceeds Rs. 9-6 a month. But a reduction of balance by more than Rs. 3,000 within twelve consecutive months will not be permitted, unless the Secretary or Manager gives six months' notice of his intention to make additional withdrawals, such notice to specify the precise amount to be withdrawn.

11. No account may be allowed for money—

(1) which is the property of Government, or

(2) which has been received for credit of Government, or

(3) which has been drawn from the treasury for expenditure on account of Government, or

(4) which is collected or received or held in trust by any public officer or court in accordance with any law, or

(5) which is raised by taxation, either local or municipal.

### Regimental and Police Accounts.

12. The Commanding Officer of a native regiment may open a single account with the Post Office Savings Bank on account of the men of his regiment, making his own arrangements about the separate accounts of the individuals, and about the distribution to them of the interest credited upon the conjoint account. This account shall be subject to the usual rules, save that the limits of Rs. 500 for deposits and of Rs. 9-6 for monthly interest and the rules fixing 4 annas as the smallest sum that can be deposited or withdrawn and prohibiting the deposit or withdrawal of any sum that is not a multiple of 4 annas, shall not apply. But except with the special sanction of the Director General of the Post Office, a reduction of balance by more than Rs. 3,000 within twelve consecutive months will not be permitted unless the Commanding Officer gives one month's notice of his intention to make additional withdrawals, such notice to specify the precise amount to be withdrawn. The Commanding Officer must, in presenting any deposits, sign a certificate that, to the best of his belief, the money is the property of the men of the regiment. District Superintendents of Police may have accounts under this rule on account of men in the police force.

*N. B.*—This rule shall not be held to prevent any Native soldier, or any member of the police force, opening an account of his own in his individual capacity.

### Powers to withdraw Money, and limitations as to withdrawal.

13. A depositor can withdraw money from his account once a week. By the term "week" is meant the period from Monday to Saturday, both days inclusive. A depositor can, therefore, withdraw money from his account on Saturday and again on the following Monday.

14. A minor can withdraw money deposited by him in his own name; but money deposited on behalf of a minor can only be withdrawn during his minority by his guardian.

15. Women, whether married or single, can withdraw money deposited by them in their own names; and married women can also withdraw money deposited by them as single women in their own names, their marriage notwithstanding. The fact that a female minor on whose behalf money has been deposited, is married or becomes married after the account has been opened on her behalf, shall not prevent her from withdrawing the money so deposited on attaining majority.

16. A depositor cannot withdraw a smaller sum than four annas, and he cannot withdraw any sum which is not a multiple of four annas, unless it be to close his account, in which case he can withdraw the balance at his credit.

*Note.*—The above restrictions do not apply to Public Accounts or Regimental and Police Accounts.

### How to open an Account.

17. Any person wishing to open an account should apply to the nearest Post Office that is a Savings Bank. Application need not necessarily be made in person; but the applicant must state his name, his occupation or profession, and his place of residence. If he be a native, he must also state his father's name and caste.

18. The intending depositor must sign a declaration, in the following form, that he has read and accepted the Post Office Savings Banks Rules. If he be unable to write, he must attend personally, and, in the presence of a witness, affix his mark or seal to the declaration, to be attested by the signature of the witness. If he should apply in person, a copy of these rules will be given to him to read, or they will be read and explained to him, should he be unable to read. If he should not apply in person, a copy of these rules with the form of declaration will be sent to him, and he must present the declaration, duly signed, with the first deposit.

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*Form of Declaration to be signed by Depositor on making first deposit.*

I hereby declare that the Post Office Savings Bank Rules have been read {by me / to me}, and that I accept them as binding upon me.

I further declare that I have no account in my own name at any Post Office or Presidency Savings Bank.

19. Women may open accounts in their own names through their agents, or if they are married women, through their husbands or agents. The agent or husband will be required to sign the declaration that the depositor understands and accepts the rules.

20. When the declaration is presented, duly signed, with the amount of the first deposit, or when it has been signed by a depositor attending in person to make a deposit, the amount of the deposit will be entered in a Pass-book, which will be supplied to the depositor, and the entry will be initialed by the Postmaster, and stamped with the office stamp. The depositor will be required to sign a receipt for the Pass-book, and to give a specimen of his signature in a book which will be kept in the Post Office. If the depositor does not attend in person he must send a specimen of his signature on a slip of paper to the Post Office.

21. If the account be opened at a Sub-Post Office, the Pass-book for the depositor will have to be obtained from the Head Office A preliminary receipt for the amount of the first deposit will, therefore, be given to the depositor, who will be informed of the date on which he should call to receive the Pass book. When the Pass-book is handed over to the depositor, he will be required to return this preliminary receipt, and to sign a receipt for the Pass-book in addition to leaving a specimen of his signature on record in the Post Office. The amount of the original deposit will be entered in the Pass-book at the Head Office, and the depositor will therefore have a guarantee that the sum has been received in that office. He should be careful to see that the entry in the Pass-book corresponds with the amount entered in the preliminary receipt before giving up the latter.

PASS-BOOK AND ITS IMPORTANCE.

22. The Pass-book will show, in the vernacular of the district or in English, as the depositor may wish, the number of his account, with the name of the officer from which the book is issued, his own name, occupation or profession, and address. No deposit can be made, and no money can be withdrawn, from an account without its production, and the Post Office will not be responsible for any sum not acknowledged in the Pass-book. Depositors should carefully examine their books before leaving the offices, and ascertain that the entries are correct. They should also be careful to keep their Pass-books in their own possession, as the Post Office will not be responsible for any loss caused to a depositor, if any person shall obtain possession of the book, and fraudulently obtain the payment of any sum belonging to the depositor.

NOTE.—In case of an account opened at a Sub-Post Office the Pass-book will be sent to the Head Office twice in each year, firstly as soon as possible after the 15th June when the Pass-book is presented for entry of interest under Rule 31; and secondly on the first occasion on which the account is operated upon during the quarter ending 31st December. The depositor will obtain a receipt in exchange for his pass-book and he must give up this receipt when his pass-book is returned to him.

LOSS OF PASS-BOOK.

23. No charge will be made for the book at first supplied to a depositor, or for any book issued to him in continuation of the original book which will be retained by the Post-Office. But if a book be lost or spoiled (except under circumstances over which the depositor has no control), or if any account be re-opened with the permission of the Comptroller, Post Office, before the expiration of three months from the date of closure (under rule 35), the depositor will have to pay one rupee for a fresh book.

MODE OF DEPOSITING MONEY AFTER AN ACCOUNT HAS BEEN OPENED.

24. A depositor may deposit money at the Post Office at which his account stands as often as he wishes, so long as the prescribed yearly limit is not exceeded All that he is required to do is to take or send the amount to be deposited with his Pass book to the Post Office. The amount of his deposit will be entered in the Pass-book, and the balance struck as shown below. The entry will then be initialed by the Postmaster, and stamped with the dated stamp of the office, and the Pass-book returned :—

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| Date. | Dated stamp of the Post Office. | Amount of each deposit or withdrawal (to be entered in words). | Amount deposited. | Amount withdrawn. | Balance at credit of the Depositor. | Initials of the Postmaster. |
|---|---|---|---|---|---|---|
| 1883. | | | R. a. p. | R. a. p. | R. a. p. | |
| 3rd April . | ... | Deposited ten rupees ... ... | 10 0 0 | ... | 10 0 0 | A.B.C. |
| 15th „ . . | ... | Deposited twenty-five rupees ... | 25 0 0 | ... | 35 0 0 | A.B.C. |
| 12th May . | ... | Withdrawn three rupees ... ... | ... | 3 0 0 | 32 0 0 | A.B.C. |

25. If the amount be deposited at a Sub-Post Office, the depositor will receive, in addition to the receipt in his Pass-book, an acknowledgment from the Head Office, which will generally be the office at the head-quarters station of the district. This acknowledgment will be delivered to him in ordinary course through the Post Office. If it should not reach the depositor in proper time, or if, when it reaches him, it should show any signs of erasure, or should not agree with the entry in the Pass-book, the depositor should immediately apply to the Postmaster of the Head Office, the name of which is in the Pass-book, and renew his application again and again until he receives a satisfactory reply.

MODE OF WITHDRAWING MONEY.

26. When a depositor wishes to withdraw money, he must present his Pass-book personally or by agent (whose name must be entered in the application for withdrawal) at the Post Office at which his account stands, with a printed form of application for withdrawal, which can be obtained at the Post Office, signed by himself, and showing the balance at his credit and the amount which he wishes to withdraw. If he is unable to write, he must attend personally and affix his mark or seal to the application, to be attested by the signature of a witness. Should he be absolutely unable to attend personally, he must have his mark or seal affixed to the application, and attested by some respectable witness, and the Postmaster will make payment to the person presenting this application with the Pass-book, after satisfying himself, by such inquiry as he may think proper, of the inability of the depositor to attend, and of the genuine character of the application.

27. Should any person other than the father, or if the father is dead, the mother, wish to withdraw money from an account opened on behalf of a minor and claim to do so as guardian of such minor, he will be required to fill in, on a prescribed form, answers to the following questions and will only be allowed to withdraw money on the order of the Postmaster-General in accordance with rule 40 :—

(*a*) What is your relationship to the minor?

(*b*) Is the father or mother of the minor dead, or are both parents dead? What near relatives of the minor are alive?

(*c*) Have you been appointed guardian of the minor by will or deed or under any enactment in force in British India? (If the reply to this question is in the affirmative the applicant should produce the documents on which he relies to support his claim).

(*d*) Are you an adult relative of the minor, and does he reside with you or is he maintained by you?

NOTE.—In the case of withdrawals made from accounts opened on behalf of minors the father or other guardian of the minor must sign the following certificate on the application for withdrawal :—

"Certified that the amount sought to be withdrawn is required for the use of the minor."

28. The amount to be withdrawn will be entered in the Pass book and a fresh balance struck, as in the case of a deposit, under the initials of the Post-master and the dated stamp of the office. The amount will then be paid to the depositor or to the person presenting the Pass-book and application, and his receipt taken, in all cases without a receipt stamp, on the Warrant of Payment.

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29. If the amount be withdrawn at a Sub-Post Office, payment cannot be made until a Warrant of Payment is received from the Head Office.* The depositor, therefore, or other person presenting the Pass-book and application, will be informed of the date on which he should come to the Post Office to receive payment, and will have the Pass-book returned to him. On presentation of the Pass-book on that date or any subsequent date after the arrival of the Warrant of Payment, the amount will be paid to the depositor, or other person presenting the Pass-book, and his receipt taken, in all cases without a receipt stamp, upon the Warrant. The necessary entries will then be made in the Pass-book, under the initials of the Sub-Postmaster and attested by the stamp of the office.

* NOTE.—Except in the case of certain selected Sub-Offices which are authorized to grant Warrants of Payment.

INTEREST.

30. Interest will be allowed at the rate of 3¾ per cent. per annum, until further orders, on all deposits, subject to the conditions of this rule. This interest will be allowed for each calendar month on the lowest balance at credit of an account between the close of the fourth day and the end of the month: provided that interest shall only be calculated at the rate of three pies a month on every complete sum of five rupees: provided also that no higher monthly interest than Rs. 9-6-0 shall be allowed on the balance of any account, except as provided for under Rules 9,10, and 12.

31. The interest calculated as above for each month will be added to the balance of each account after the 15th of June of each year. Depositors will be called upon to present their Pass-books in order that the necessary entries may be made in them. If the Pass-book be not presented for this purpose, in response to the notice sent by the Post Office to the depositor, the entry will be made on the next occasion when a deposit is made or when money is withdrawn.

NOTE.—Pass-books of depositors in Sub-Post Offices will be sent to the Head Office for the purpose of adding interest under this rule.

TRANSFER OF ACCOUNTS.

32. A depositor may have his account transferred free of charge to any Post Office that is a Savings Bank, *provided that the account shall have been in existence for three months previous to the transfer.* If he should wish to transfer his account, he must present his Pass-book at the Post Office personally, or send it with a written application for transfer. The Pass-book will be returned to the depositor who should present it as soon as possible at the Post Office to which his account has been transferred. A depositor in a Presidency Savings Bank may, by application to the Presidency Savings Bank, have his account transferred, free of charge, to any Post Office Savings Bank.

CLOSING AN ACCOUNT.

33. When a depositor wishes to close his account, he must present his Pass-book with a form of application for withdrawal of the net amount at his credit. The amount of interest due on his account up to the end of the calendar month preceding the date of presentation, will be entered in the Pass-book, and a final balance struck. The amount will then be paid to the depositor, and his receipt taken on the Warrant of Payment. The Pass-book will be retained in the Post Office. If the application for closing an account be presented at a Sub-Office, the same procedure will be followed as in the case of an ordinary withdrawal, except that the Pass-book will be retained.

34. If an account be closed under the orders of the Comptroller, Post Office, notice in writing will be sent to the depositor, requiring him to present his Pass-book and receive payment of his balance at his credit as soon as convenient. After the date of such notice, no deposit will be accepted on the account so closed, and no interest will be allowed upon the balance after the end of the calendar month preceding such date.

RE-OPENING AN ACCOUNT.

35. A depositor who has once closed an account cannot open another account until after the expiration of three months from the date of closure, without the permission of the Comptroller, Post Office; and a depositor whose account has been closed by order cannot open a fresh account in any case without the permission of the Comptroller, Post Office.

DEAD ACCOUNTS.

36. Accounts in respect of which no transactions have taken place for the periods specified below will be treated as "dead" and no subsequent deposit or withdrawal will be allowed in the case of such accounts without the previous orders of the Comptroller, Post Office.

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| When the balance of the account is | And when no sum has been deposited or withdrawn and no interest added for |
|---|---|
| Under Rs. 10 ... ... ... ... ... ... | 3 complete years. |
| ,, ,, 100 ... ... ... ... ... ... | 6 ,, ,, |
| Over ,, 100 ... .. ... ... ... ... | 12 ,, ,, |

NOTE.—By "transaction" in this rule is meant not only a deposit or withdrawal but also the entry of interest which has accrued on an account, which entry is made annually on presentation of the Pass-book for the purpose.

*Procedure to be followed in cases of succession and guardianship.*

37. If a depositor should die, leaving in a Post Office Savings Bank a sum of money not exceeding one thousand rupees, and if probate of his will or letters of administration of his estate, or a certificate granted under Act No. XXVII of 1860 be not produced to the Postmaster-General within three months of the death of the said depositor, the Postmaster-General may pay the said sum of money to any person appearing to him to be entitled to receive it or to administer the estate of the deceased.

38. Balances in excess of Rs. 1,000 may be paid on production of probate, letters of administration or a certificate under Act XXVII of 1860, unless otherwise ordered by the Director General of the Post Office, who has discretionary power to dispense with such evidence in cases where he is of opinion that to require it would cause hardship, and that to dispense with it would involve no appreciable risk.

39. If any depositor become insane or otherwise incapable of managing his affairs, and if such insanity or incapacity be proved to the satisfaction of the Postmaster-General, then the Postmaster-General may, from time to time, make payment out of the deposits to any proper person.

40. When any person other than the father, or if the father is dead, the mother, claims to withdraw money from an account opened on behalf of a minor as being the guardian of such minor, the Postmaster-General may authorize the applicant to withdraw money from the account for the minor's use in accordance with the following rules :—

(*a*). Where the applicant claims as guardian duly appointed by will or deed, on production of the documents supporting the claim.

(*b*). Where the amount of the account does not exceed Rs. 250 and the applicant does not claim to have been appointed by will or deed, upon his giving evidence to the satisfaction of the Postmaster-General that he (the applicant) is the guardian of the minor.

(*c*). Where the amount of the account exceeds Rs. 250 and the applicant does not claim to have been appointed guardian by will or deed, upon the applicant producing a certificate of administration granted under Act XL of 1858 or Act XX of 1864.

(*d*). In any case of doubt the applicant (not being the father or mother of the minor) may be required to produce a certificate of administration under Act XL of 1858 or Act XX of 1864 before payment is made to him.

NOTE.—An authority given by the Postmaster-General under (*b*) will not hold good for a subsequent withdrawal if the balance of the account then exceeds Rs. 250.

PURCHASE, SALE, AND CUSTODY OF GOVERNMENT SECURITIES.

*Purchase of Government Securities.*

41. Any *bonâ fide* depositor, whose account has been in existence for not less than three months, may invest the amount of his balance or a portion of it in Government Securities through the Post Office. Any such depositor may also purchase, through the Post Office, Government Securities not exceeding in nominal value Rs. 1,000 in one year and Rs. 3,000 in all, by tendering in cash the amount necessary to complete the purchase. A written application should be presented, together with his Pass-book, by a depositor desiring to make an investment under this rule. The application will then be forwarded to the Comptroller, Post Office, who will take the necessary steps for making the purchase through the Comptroller-General.

(*a*). The paper purchased will be of the 4 per cent. loans, unless 4½ per cent. paper is specially applied for.

(*b*). The investor may also specially apply that the paper remain in the custody of the Comptroller-General. In this case the Comptroller-General will, if necessary, transfer the paper to the 4 per cent. loan of 1865. The investor may at any time apply through the local Post Office for the delivery to him of paper thus held by the Comptroller-General. If application is not made under this clause, the paper purchased by the Comptroller-General will be enfaced for payment of interest at the local treasury, and forwarded to the Post Office for delivery to the investor.

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SALE OF GOVERNMENT SECURITIES.

42. Any depositor may apply for the sale through the Post Office of Government Securities which have been purchased for him through the Post Office, whether held by himself or held for him by the Comptroller-General. If the securities are presented with the application, they must be endorsed in favor of the Comptroller-General.

SAFE CUSTODY OF GOVERNMENT SECURITIES.

43. A depositor may tender at a Post Office Savings Bank, for safe custody by the Comptroller-General, Government Securities which have been purchased for him through the Post Office. The amount so tendered must not exceed in nominal value Rs. 1,000 in any year, or Rs. 3,000 in all. The Securities so tendered must be endorsed to the Comptroller-General.

INTEREST ON GOVERNMENT SECURITIES.

44. So long as the Government Securities remain in the custody of the Comptroller-General, interest, when due, will be drawn and advised to the local Post Office Savings Bank through the Comptroller, Post Office, for credit to the depositor's account.

FEES.

45. The following fees will be charged :—

*On purchase* : 4 annas per cent.

*On realization and remittance of interest* : 4 annas per cent. on the amount of the interest.

*On delivery out of custody* : 4 annas per cent. unless the application for delivery is made within a year of the purchase.

*On sales* : 4 annas per cent. and any actual outlay upon brokerage.

POWER OF GOVERNMENT TO ALTER RULES.

46. The Governor-General in Council reserves the right to alter or add to these rules at any time.

(*Government of India, Resolution No.* 1729, *dated* 9*th April* 1888, *published in the Supplement to the Gazette of India, dated* 14*th idem, page* 695).

(*c*). RESOLUTION.—The Comptroller-General submits for orders a proposal originated by the Government of Bombay—

(i). To permit contractors to make security deposits in the Savings Banks ; and

(ii). To grant interest on the actual amount of such deposits without reference to the limit laid down by Rules IV and VII of the Savings Banks Rules.

2. The Comptroller-General objects to the principle of this proposal, on the ground that such deposits do not come within Rule II or Rule XII of the Rules, and that they should be made in the form of deposits of Government paper.

3. The admission of these deposits is no doubt foreign to the general object of the establishment of Savings Banks, and, as a rule, it is proper and more convenient that they should be made in Government paper.

4. But the practice of allowing Contractors' deposits in certain cases to be placed in Savings Banks has existed for a long time, and by the proceedings of August 1872 the rule, by which such deposits were permitted, was extended to "all Government Savings Banks in India and to all moneys deposited as security for the performance of contract or of public duties." The plan has proved to be of great practical advantage to petty contractors, and it is extensively worked in some places.

5. The Governor-General in Council will not therefore change the practice in respect to the admission of such deposits in Savings Banks : but as the principle of the concession applies only to deposits of small amounts, His Excellency in Council considers it inexpedient to permit any relaxation of the ordinary rules as regards the yearly amount of deposit or the maximum monthly interest allowable.—(*Government of India No.* 771, *dated* 23*rd May* 1881).

(*d*). *See* NOTE (*e*), 12, 20, 21, 22, 31 to Act I of 1879.

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# ACT No. VIII of 1873.

(*Passed on the* 11*th February* 1873).

An Act to regulate Irrigation, Navigation, and Drainage in Northern India.

Preamble.

Whereas, throughout the territories to which this Act extends, the Government is entitled to use and control for public purposes the water of all rivers and streams flowing in natural channels, and of all lakes and other natural collections of still water; and whereas it is expedient to amend the law relating to Irrigation, Navigation, and Drainage in the said territories; It is hereby enacted as follows:—

## PART I.

### PRELIMINARY.

Short title.

This Act may be called "The Northern India Canal and Drainage Act, 1873":

Local extent.

It extends to the territories for the time being respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of Oudh and the Central Provinces; and applies to all lands, whether permanently settled, temporarily settled, or free from revenue.

**2.** *Repealed by Act XII of* 1873.

Interpretation-clause.

**3.** In this Act—unless there be something repugnant in the subject or context—

"Canal."

(1) "Canal" includes—

(*a*) all canals, channels, and reservoirs constructed, maintained, or controlled by Government for the supply or storage of water;

(*b*) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(*c*) all water-courses as defined in the second clause of this section;

(*d*) any part of a river, stream, lake, or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act;

"Water-course."

(2) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel;

"Drainage-work."

(3) "Drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns;

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"Vessel."

(4) "Vessel" includes boats, rafts, timber, and other floating bodies;

"Commissioner."

(5) "Commissioner" means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner;

"Collector."

(6) "Collector" means the Head Revenue Officer of a District, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector;

"Canal Officer."

(7) "Canal Officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

"Superintending Canal Officer" means an officer exercising general control over a canal or portion of a canal;

"Divisional Canal Officer" means an officer exercising control over a division of a canal;

"Sub-divisional Canal Officer" means an officer exercising control over a sub-division of a canal;

"District."

(8) "District" means a district as fixed for revenue purposes.

Power to appoint officers.

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section three, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs.

NOTE.—Under the powers conveyed in Section 4, Act VIII of 1873, His Honor the Lieutenant-Governor is pleased to declare that the Superintending Engineer of the Circle within which the Muzaffargarh Series of Inundation Canals may for the time being be situated shall be the Superintending Canal Officer of the Muzaffargarh Canals, the Executive Engineer of the Muzaffargarh Canals Division shall be the Divisional Canal Officer, and the Deputy Collector shall be the Sub-divisional Canal Officer, as defined in Act VIII of 1873, Section 3, item (7). Further that all establishment employed on these Canals shall be under the control of the Divisional Canal Officer, subject to his departmental superiors and to such rules as may from time to time be issued by the Local Government in the Irrigation Department.—(*No.* 546, *I, dated 5th February* 1886, *Punjab Gazette of* 11*th idem, Part I, page* 50).

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## PART II.

### OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

Notification to issue when water-supply is to be applied for public purposes.

5. Whenever it appears expedient to the Local Government that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal or drainage-work,

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the Local Government may, by notification in the official Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

NOTE.—The water of the river Sutlej will be used by Government for the Sirhind Canal from 13th August 1880.—(*Punjab Government Notification No.* 433, *dated* 10*th May* 1880, *Punjab Gazette of* 13*th idem*).

The water of the Ravi for the Sidhnai Canal from the 1st July 1886.—(*No.* 23, *dated* 23*rd March* 1886, *Punjab Gazette of* 25*th idem Part I, Page* 142).

The water of the River Swat for the Swat River Canal.—(*No.* 29 *of same date*).

The water of the River Chenab for the Chenab Canal.—(*No.* 30 *of same date*).

Powers of Canal Officer.

**6.** At any time after the day so named, any Canal Officer, acting under the orders of the Local Government in this behalf, may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to claims for compensation.

**7.** As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places, stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section eight may be made before him.

Damage for which compensation shall not be awarded.

**8.** No compensation shall be awarded for any damage caused by—

(*a*) stoppage or diminution of percolation or floods;

(*b*) deterioration of climate or soil;

(*c*) stoppage of navigation, or of the means of drifting timber or watering cattle;

(*d*) displacement of labour.

Matters in respect of which compensation may be awarded.

But compensation may be awarded in respect of any of the following matters:—

(*e*) Stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or under ground, in use at the date of the said notification:

(*f*) Stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification:

(*g*) Stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification:

(*h*) Damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1871, Part IV:

(*i*) Any other substantial damage, not falling under any of the above clauses (*a*), (*b*), (*c*), or (*d*), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

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In determining the amount of such compensation, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed ; and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clauses (*e*), (*f*), or (*g*) of this section, in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant, or under the Indian Limitation Act, 1871, Part IV.

And no right to any of the advantages referred to in clauses (*a*), (*b*), and (*c*) of this section shall be acquired, as against the Government, under the same Part.

Limitation of claims.

9. No claim for compensation for any such stoppage, diminution, or damage shall be made after the expiration of one year from such stoppage, diminution, or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Enquiry into claims and amount of compensation.

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation, if any, which should be given to the claimant ; and sections nine to twelve (inclusive), fourteen and fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, fifty-seven, fifty-eight, and fifty-nine of the Land Acquisition Act, 1870, shall apply to such enquiries :

Provided that, instead of the last clauses of the said section twenty six, the following shall be read :" The provisions of this section and of section eight of the Northern India Canal and Drainage Act, 1873, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded."

Abatement of rent on interruption of water-supply.

11. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of water-supply, in respect of which compensation is allowed under section eight, takes place, may claim an abatement of rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding.

Enhancement of rent on restoration of water-supply.

12. If a water-supply increasing the value of such holding is afterwards restored to the said land, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Such enhancement shall be on account only of the restored water-supply, and shall not effect the liability of the tenant to enhancement of rent on any other grounds.

Compensation when due.

13. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of,

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and simple interest at the rate of six per cent. per annum shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same.

Interest.

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## PART III.

### Of the Construction and Maintenance of Works.

Power to enter and survey &c.

14. Any Canal Officer or other person acting under the general or special order of a Canal Officer,

may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon ;

and dig and bore into the sub-soil ;

and make and set up suitable land-marks, level-marks, and water-gauges ;

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal Officer :

Power to clear land.

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle ;

Power to inspect and regulate water-supply.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal :

Notice of intended entry into houses.

Provided that, if such Canal Officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court, or garden at least seven days' notice in writing of his intention to do so.

Compensation for damage caused by entry.

In every case of entry under this section, the Canal Officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this section ; and in case of dispute as to the sufficiency of the amount so tendered, he shall forthwith refer the same for decision by the Collector, and such decision shall be final.

Power to enter for repairs and to prevent accidents.

15. In case of any accident happening or being apprehended to a canal, any Divisional Canal Officer or any person acting under his general or special orders in this behalf may enter upon any lands adjacent to such canal, and may execute all works which may be necessary for the purpose of repairing or preventing such accident.

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In every such case, such Canal Officer or person shall tender compensation to the proprietors or occupiers of the said lands for all damage done to the same. If such tender is not accepted, the Canal Officer shall refer the matter to the Collector, who shall proceed to award compensation for the damage as though the Local Government had directed the occupation of the lands under section forty-three of the Land Acquisition Act, 1870.

Compensation for damage to land.

16. Any persons desiring to use the water of any canal, may apply in writing to the Divisional or Sub-divisional Canal Officer of the division or sub-division of the canal from which the water-course is to be supplied, requesting such officer to construct or improve a water-course at the cost of the applicants.

Application by persons desiring to use canal-water.

The application shall state the works to be undertaken, their approximate estimated cost, or the amount which the applicants are willing to pay for the same, or whether they engage to pay the actual cost as settled by the Divisional Canal Officer, and how the payment is to be made.

Contents of application.

When the assent of the Superintending Canal Officer is given to such application, all the applicants shall, after the application has been duly attested before the Collector, be jointly and severally liable for the cost of such works to the extent mentioned therein.

Liability of applicants for cost of works.

Any amount becoming due under the terms of such application, and not paid to the Divisional Canal Officer, or the person authorized by him to receive the same, on or before the date on which it becomes due, shall, on the demand of such officer, be recoverable by the Collector, as if it were an arrear of land-revenue.

Recovery of amount due.

17. There shall be provided, at the cost of Government, suitable means of crossing canals constructed or maintained at the cost of Government, at such places as the Local Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands.

Government to provide means of crossing canals.

On receiving a statement in writing, signed by not less than five of the owners of such lands, to the effect that suitable crossings have not been provided on any canal, the Collector shall cause enquiry to be made into the circumstances of the case, and if he thinks that the statement is established, he shall report his opinion thereon for the consideration of the Local Government, and the Local Government shall cause such measures in reference thereto to be taken as it thinks proper.

18. The Divisional Canal Officer may issue an order to the persons using any water-course to construct suitable bridges, culverts, or other works for the passage of the water of such water-course across any public road, canal, or drainage channel in use before the said water-course was made, or to repair any such works.

Persons using water-course to construct works for passing water across roads, &c.

Such order shall specify a reasonable period within which such construction or repairs shall be completed;

If they fail, Canal Officer may construct.

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and if, after the receipt of such order, the persons to whom it is addressed do not, within the said period, construct or repair such works to the satisfaction of the said Canal Officer, he may, with the previous approval of the Superintending Canal Officer, himself construct or repair the same;

and if the said persons do not, when so required, pay the cost of such construction or repairs as declared by the Divisional Canal Officer, the amount shall, on the demand of the Divisional Canal Officer, be recoverable from them by the Collector as if it were an arrear of land-revenue.

and recover cost.

**19.** If any person, jointly responsible with others for the construction or maintenance of a water-course, or jointly making use of a water-course with others, neglects or refuses to pay his share of the cost of such construction or maintenance, or to execute his share of any work necessary for such construction or maintenance, the Divisional or Sub-divisional Canal Officer, on receiving an application in writing from any person injured by such neglect or refusal, shall serve notice on all the parties concerned that, on the expiration of a fortnight from the service, he will investigate the case; and shall, on the expiration of that period, investigate the case accordingly, and make such order thereon as to him seems fit.

Adjustment of claims between persons jointly using water-course.

Such order shall be appealable to the Commissioner, whose order thereon shall be final.

Any sum directed by such order to be paid within a specified period, may, if not paid within such period, and if the order remains in force, be recovered by the Collector, from the person directed to pay the same, as if it were an arrear of land-revenue.

Recovery of amount found due.

**20.** Whenever application is made to a Divisional Canal Officer for a supply of water from a canal, and it appears to him expedient that such supply should be given, and that it should be conveyed through some existing water-course, he shall give notice to the persons responsible for the maintenance of such water-course to show cause, on a day not less than fourteen days from the date of such notice, why the said supply should not be so conveyed; and, after making enquiry on such day, the Divisional Canal Officer shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

Supply of water through intervening water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal Officer, be binding on the applicant, and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal Officer may determine.

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

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Application for construction of new water-course.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal Officer, stating—

(1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;

(2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for acquiring such right;

(3) that he is able to defray all costs involved in acquiring such right and constructing such water-course.

Procedure of Canal Officer thereupon.

22. If the Divisional Canal Officer considers—

(1) that the construction of such water-course is expedient, and

(2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section twenty eight;

and, upon such deposit being made, he shall cause inquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

Application for transfer of existing water-course.

23. Any person desiring that an existing water-course should be transferred from its present owner to himself, may apply in writing to the Divisional Canal Officer, stating—

(1) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water-course;

(2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for procuring such transfer;

(3) that he is able to defray the cost of such transfer.

Procedure thereupon.

If the Divisional Canal Officer considers—

(*a*) that the said transfer is necessary for the better management of the irrigation from such water-course, and

(*b*) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation that may become due under the provisions of section twenty-eight in respect of such transfer:

and, upon such deposit being made, he shall publish a notice of the application in every village, and shall send a copy of the notice to the Collector of every district, through which such water-course passes.

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Objections to construction or transfer applied for.

**24.** Within thirty days from the publication of a notice under section twenty-two or section twenty-three, as the case may be, any person interested in the land or water-course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made.

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal Officer of the place and time at which such inquiry will be held.

The Collector shall record in writing all orders passed by him under this section and the grounds thereof.

When applicant may be placed in occupation.

**25.** If no such objection is made, or (where such objection is made) if the Collector over-rules it, he shall give notice to the Divisional Canal Officer to that effect, and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water-course to be transferred, as the case may be.

Procedure when objection is held vaild.

**26.** If the Collector considers any objection made as aforesaid to be valid, he shall inform the Divisional Canal Officer accordingly; and, if such officer sees fit, he may, in the case of an application under section twenty-one, alter the boundaries of the land so marked out, and may give fresh notice under section twenty-two; and the procedure hereinbefore provided shall be applicable to such notice and the Collector shall thereupon proceed as before provided.

Procedure when Canal Officer disagrees with Collector.

**27.** If the Canal Officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner.

Such decision shall be final, and the Collector if he is so directed by such decision, shall, subject to the provisions of section twenty-eight, cause the said applicant to be placed in occupation of the land so marked out or of the water-course to be transferred, as the case may be.

Expenses to be paid by applicant before receiving occupation.

**28.** No such applicant shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Procedure in fixing compensation.

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act, 1870; but he may, if the person to be compensated so desire, award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred.

Recovery of compensation and expenses.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector as if it were an arrear of land-revenue, and shall, when recovered, be paid by him to the person entitled to receive the same.

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Conditions binding on applicant placed in occupation.

29. When any such applicant is placed in occupation of land or of a water-course as aforesaid, the following rules and conditions shall be binding on him and his representative in interest :—

*First.*—All works necessary for the passage across such water-course, of water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal Officer.

*Second.*—Land occupied for a water-course under the provisions of section twenty-two shall be used only for the purpose of such water-course.

*Third.*—The proposed water-course shall be completed to the satisfaction of the Divisional Canal Officer within one year after the applicant is placed in ocupation of the land.

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge—

*Fourth.*—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

*Fifth.*—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such persons as the Collector determines.

*Sixth.*—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation; and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent. per annum from the date on which it became due, as if it were an arrear of land-revenue, and shall pay the same, when recovered, to the person to whom it is due.

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely.

Procedure applicable to occupation for extensions and alterations.

30. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

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## PART IV.

### Of the Supply of Water.

In absence of written contract, water-supply to be subject to rules.

31. In the absence of a written contract, or so far as any such contract does not extend, every supply of canal-water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof.

Conditions as to—

32. Such contracts and rules must be consistent with the following conditions :—

power to stop water-supply ;

(*a*). The Divisional Canal Officer may not stop the supply of water to any water-course, or to any person, except in the following cases :—

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government ;

(2) whenever and so long as any water-course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom ;

(3) within periods fixed from time to time by the Divisional Canal Officer :

claims to compensation in case of failure or stoppage of supply ;

(*b*). No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations, or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal Officer considers necessary ; but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government :

claims on account of interruption from other causes ;

(*c*). If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clauses, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector may award to the petitioner reasonable compensation for such loss :

duration of supply ;

(*d*). When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity, and to apply only to that crop ; but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year :

sale or sub-letting of right to use canal water ;

(*e*). Unless with the permission of the Superintending Canal Officer, no person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use : Provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water-course for the irrigation of the land held by such tenant :

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But all contracts made between Government and the owner or occupier of any immovable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place :

transfer, with land, of contracts for water ;

(*f*). No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1871, Part IV, nor shall Government be bound to supply any person with water, except in accordance with the terms of a contract in writing.

no right acquired by user.

## PART V.

### Of Water-rates.

**33.** If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

Liability when person using unauthorizedly cannot be identified.

the person on whose land such water has flowed if such land has derived benefit therefrom,

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, to the charges made for such use.

**34.** If water supplied through a water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal Officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Liability when water runs to waste.

**35.** All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

Charges recoverable in addition to penalties.

All questions under section thirty-three or section thirty-four shall be decided by the Divisional Canal Officer, subject to an appeal to the head revenue officer of the district, or such other appeal as may be provided under section seventy-five.

Decision of questions under sections 33 and 34.

**36.** The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly.

Charge on occupier for water how determined.

A rate so charged shall be called the 'occupier's rate.'

'Occupier's rate.'

**37.** In addition to the occupier's rate, a rate to be called the 'owner's rate' may be imposed, according to rules to be made by the Local Government, on the owners of canal-irrigated lands, in respect of the benefit which they derive from such irrigation.

'Owner's rate.'

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Amount of owner's rate.

**38.** The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase in the annual value or produce thereof caused by the canal-irrigation. And for the purpose of this section only, land which is permanently settled or held free of revenue, shall be considered as though it were temporarily settled and liable to payment of revenue.

Owner's rate when not chargeable.

**39.** No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land revenue at irrigation-rates, during the currency of such assessment.

NOTES.—(*a*).—The Lieutenant-Governor has, with the sanction of the Governor-General in Council, laid down the following rule for the assessment, until further orders, of the "owner's rate" under Sections 37, 38 and 39 of this Act, in certain lands irrigated from the Agra Canal, in the districts of Delhi and Gurgaon :—

RULE.

In all estates into which canal irrigation has been introduced for the first time since last Settlement, and shall hereafter be introduced, the owner's rate shall, until further orders, be assessed at one third of the occupier's rate leviable on occupiers of canal irrigated lands.

*Proviso 1st.* The owner's rate shall nowhere exceed the sum which, under the rules for the time being in force for the assessment of land revenue, might be assessed on such land on account of the increase in the annual value or produce thereof, caused by the canal.

*Proviso 2nd.* All lands irrigated from wells or other sources at the time of the last Settlement and then assessed at irrigated rates, shall be excluded from the operation of owner's rate.

2. This rate will be first collected for the rabi fasl of 1874-75, A. D.—(*Notification No.* 4059 *dated 17th September* 1875—*Punjab Gazette of 23rd idem*).

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(*b*).—The Lieutenant-Governor has, with the sanction of the Governor-General in Council, laid down the following rules for the assessment of the "owner's rate" under Sections 37,38 and 39 of this Act in lands irrigated from the Agra Canal which are not assessed to Government revenue :—

RULES.

1. In all such lands the owner's rate shall, until further orders, be assessed in the same manner as in lands assessed to Government revenue.

2. In all such land, the owners of which are also grantees of the land revenue, the rate will be first collected for the kharif fasl of the present year 1875, A.D.—(*Notification No.* 4060, *dated 17th September* 1875—*Punjab Gazette of 23rd idem*).

(*c*). The Lieutenant-Governor has laid down the following rule for the assessment of the owner's rate under the above sections on all lands irrigated from the Western Jumna Canal, in the districts of Dehli, Rohtak, and the Panipat Tahsil of Karnal, and that part of the Karnal tahsil which formerly belonged to the Panipat district, and has been re-assessed in the Settlement of the Karnal district now in progress :—

RULE.

In all estates receiving irrigation from the Western Jumna Canal the owner's rate shall, until further orders, be assessed at one-half of the occupier's rate leviable on occupiers of canal-irrigated lands.

*Proviso 1st.*—The owner's rate shall nowhere exceed the sum which, under the rules for the time being in force for the assessment of land revenue, might be assessed on such land on account of the increase in the annual value of produce thereof, caused by the canal.

*Proviso 2nd.*—All lands irrigated from wells or other sources besides canals, and assessed at irrigated rates at the Settlement now in force, shall be excluded from the operation of owner's rate.

This rate will be first collected in the Panipat Tahsil from the autumn harvest of 1878-79, and in the rest of the tract under reference. from the autumn harvest of 1879-80.—(*Notification No.* 576½, *dated 25th June* 1880—*Punjab Gazette of 1st July*).

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(*d*).—*General rules for all new Jagir or Mafi grants and for old grants to which canal irrigation has not heretofore extended.*

1. In a case of (*a*) all new grants which may be made hereafter, or (*b*) of lapsing grants continued to heirs by review of former orders, or (*c*) of old grants to which canal irrigation has not heretofore extended, the grantees shall not get the owner's rate. This rule in respect to grants of class (*c*) shall be subject to the following proviso :—

*Proviso.*—If, owing to supersession of irrigation from wells or other private works, by irrigation from a Government canal, particular fields, forming part of a Jagir or Mafi grant and assessed with land-revenue at irrigation rates, shall at a Settlement subsequent to the grant be assessed at dry rates and made liable to a separate charge of the nature of owner's rate, then the grantee (if not also the proprietor or cultivator of the land) shall be entitled to compensation for the loss of the irrigated rate of land-revenue which he formerly received on such fields. The compensation may take the form of an assignment of the whole or part of the owner's rate on such fields, or of a lump sum cash payment, or of a separate additional assignment of land-revenue, as may seem most advisable in each case.

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*General rules for all old (i. e. previously made) Jagir or Mafi grants to which Canal Irrigation has been heretofore extended.*

1. If the grant was irrigated from a Government Canal, either when the grant was first made or before the first regular Settlement, and the grantee has hitherto enjoyed, either in the way of assignment or remission, the owner's rate or a land-revenue assessed by the old procedure at canal-irrigated rates, he shall get the owner's rate in future.

2. If the grant was not irrigated by the canal, either when the grant was first made or before the first regular Settlement, the grantee shall not get owner's rate ; but this rule shall be subject to the following provisos :—

*Proviso I.*—If on the Bari Doab and Upper Sutlej Inundation Canals, the Government has heretofore surrendered to the grantee the charges equivalent to owner's rate, *viz*, the water-advantage rate on the Bari Doab Canal, and on the Upper Sutlej Inundation Canals in the Lahore district, and half the fluctuating canal-revenue on the Upper Sutlej Inundation Canals in the Montgomery district, the grantee shall enjoy the owner's rate for his life.

*Explanation.*—In the case of grants held by institutions, the surrender of the owner's rate will be continued only during the life of the present head of the institution if there is one, and if there is no such head, the term of Settlement will be substituted for the life of the holder in applying this proviso.

*Proviso II.*—If, owing to supersession of irrigation from wells or other private works, by irrigation from a Government canal, particular fields forming part of a Jagir or Mafi grant and assessed with land-revenue at irrigation rates shall at a Settlement subsequent to the grant be assessed at dry rates and made liable to a separate charge of the nature of owner's rate, then the grantee (if not also the proprietor or cultivator of the land) shall be entitled to compensation for the loss of the irrigated rate of the land-revenue which he formerly received on such fields. This compensation may take the form of an assignment of the whole or part of the owner's rate on such fields, or of a lump sum cash payment, or of a separate additional assignment of land-revenue, as may seem most advisable in each case.

*Proviso III.*—This rule will not apply to the case of such assignees, if any, who are expressly entitled to owner's rate under the terms of these grants.

*General Explanation I.*—For the purpose of the above rules the term "owner's rate" includes water-advantage revenue, and the half of the fluctuating Canal revenue on the Upper Sutlej Inundation canals in Montgomery, which represents the revenue demanded at irrigated rates under the former system of assessment ; and also the canal-advantage revenue rate assessable in the districts of Mooltan, Muzaffargarh, and Dera Ghazi Khan, on lands not assessed with land-revenue at canal-irrigated rates at the late Settlement, which may hereafter be supplied with canal water.

*General Explanation II.*—The term "grant" means each separate village or mafi plot, not a grant comprising several separate villages or several separate plots.—(*See Financial Commissioner's Circular No.* 6 S. *of* 1882).

(*e*). For further instructions applying to the owner's rate system, see Financial Commissioner's Circular No. 7 S, of 1882.

**40.—43.** *Repealed by Act XVI of* 1887.

Water-rate by whom payable when charged on land held by several owners.

**44.** Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land, and may be deducted by him from such rents or profits

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before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

*Recovery of Charges.*

Certified dues recoverable as land revenue.

**45.** Any sum lawfully due under this Part, and certified by the Divisional Canal Officer to be so due, which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land-revenue.

Power to contract for collection of canal-dues.

**46.** The Divisional Canal Officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work, or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section forty-five ; and if such sum or any part of it be still due by the said third party, the sum or part so due may be recovered in like manner by the Collector from such third party.

Lambardars may be required to collect canal dues.

**47.** The Collector may require the lambardar or person under engagement to pay the land-revenue of any estate, to collect and pay any sum payable under this Act by a third party, in respect of any land or water in such estate.

Such sums shall be recoverable by the Collector as if they were arrears of land-revenue due in respect of the defaulter's share in such estate ;

and for the purpose of collecting such sums from the subordinate zamindars, ryots or tenants, such lambardar or person may exercise the powers, and shall be subject to the rules, laid down in the law for the time being in force in respect to the collection by him of the rents of land or of shares of land-revenue.

The Local Government shall provide

(*a*) for remunerating persons collecting sums under this section ; or

(*b*) for indemnifying them against expenses properly incurred by them in such collection; or

(*c*) for both such purposes.

Fines excluded from sections 45, 46, 47.

**48.** Nothing in sections forty-five, forty-six, or forty-seven applies to fines.

## PART VI.

### Of Canal-navigation.

Detainer of vessels violating rules.

**49.** Any vessel entering or navigating any canal contrary to the rules made in that behalf by the Local Government, or so as to cause danger to the canal or the other vessels therein, may be removed or detained, or both re-

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moved and detained, by the Divisional Canal Officer, or by any other person duly authorized in this behalf.

Liability of owners of vessels causing damage.

The owner of any vessel causing damage to a canal, or removed or detained under this section, shall be liable to pay to the Government such sum as the Divisional Canal Officer with the approval of the Superintending Canal Officer determines to be necessary to defray the expenses of repairing such damage, or of such removal or detention, as the case may be.

Recovery of fines for offences in navigating canals.

50. Any fine imposed under this Act upon the owner of any vessel, or the servant or agent of such owner or other person in charge of any vessel, for any offence in respect of the navigation of such vessel, may be recovered either in the manner prescribed by the Code of Criminal Procedure, or, if the Magistrate imposing the fine so directs, as though it were a charge due in respect of such vessel.

Power to seize and detain vessel on failure to pay charges.

51. If any charge due under the provisions of this Part in respect of any vessel is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize and detain such vessel and the furniture thereof, until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Power to seize cargo or goods, if charges due thereon are not paid.

52. If any charge due under the provisions of this Part in respect of any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, is not paid on demand to the person authorized to collect the same, the Divisional Canal Officer may seize such cargo or goods, and detain them until the charge so due, together with all expenses and additional charges arising from such seizure and detention, is paid in full.

Procedure for recovery of such charges after seizure.

53. Within a reasonable time after any seizure under section fifty-one or section fifty-two, the said Canal Officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice, be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And if such claim be not so discharged, the said Canal Officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale:

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo, or goods.

The residue of such furniture, cargo, or goods, and of the proceeds of the sale, shall be made over to the owner or person in charge of the property seized.

Procedure in respect of vessels abandoned and goods unclaimed.

54. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal Officer may take possession of the same.

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The officer so taking possession may publish a notice that if such vessel and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same; and, if such vessel, contents, cargo or goods be not so claimed, he may, at any time after the day named in the notice, proceed to sell the same.

Disposal of proceeds of sale.

The said vessel and its contents, and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale after paying all tolls, charges, and expenses incurred by the Divisional Canal Officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer.

If the Divisional Canal Officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid, and the proceeds to be paid into the district treasury, there to be held until the right thereto be decided by a Court of competent jurisdiction.

## PART VII.

### Of Drainage.

Power to prohibit obstructions, or order their removal.

**55.** Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river, stream, or drainage-channel, such Government may, by notification published in the official Gazette, prohibit, within limits to be defined in such notification, the formation of any obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream, or drainage-channel as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

NOTES.—(*a*). The Lieutenant-Governor has made this section applicable to certain streams and drainage lines in the Punjab, together with their affluents.—(*Notification No.* 1259 *I, dated 22nd March* 1875).

(*b*). Under the provisions of Section 55 of Act VIII of 1873, His Honor the Lieutenant-Governor is pleased to prohibit within the limits of the villages enumerated below, situated within the British territory, the formation of mill-dams, channels, or any other obstructions whatsoever in the bed of the river Ravi, except with the permission of the Executive Engineer, 1st Division, Bari Doab Canal, who is also hereby authorized to remove any such existing obstruction which he may consider injurious to any land, or to the public health or public convenience :—

*List of Villages.*

| | | | |
|---|---|---|---|
| Terahti, | Zilla Gurdaspur, Tahsil Pathankot. | Sidhori, | Zilla Gurdaspur, Tahsil Pathankot. |
| Adial-in-kot, | | Garha, | |
| Jagial, | | Madhopur, | |
| Rajpura, | | Sheher, | |
| Barkalla, | | Mirzapur, | |
| Harur, | | Hajipur, | |
| Kamwal, | | Chhun, | |
| Khalab, | | Beheri, | |

(*Notification No.* 3602 *I, dated* 16*th October* 1882, *Punjab Gazette of* 19*th idem*).

(*c*). Obstructions have also been prohibited under this section within the limits of the deep channel of certain specified nallas and drainages in which water from the Swat Canal and its Rajbahas escapes.—(*No.* 1381 *I, dated* 25*th March* 1886, *Punjab Gazette of* 1*st April, Part I, page* 154).

Power to remove obstructions after prohibition.

**56.** The Divisional Canal Officer, or other person authorized by the Local Government in that behalf, may, after such publication, issue an order to the person causing

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or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

If, within the time so fixed, such person does not comply with the order, the said Canal Officer may himself remove or modify the obstruction; and if the person to whom the order was issued does not, when called upon, pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

Preparation of schemes for works of improvement.

57. Whenever it appears to the Local Government that any drainage works are necessary for the improvement of any lands, or for the proper cultivation or irrigation thereof, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands, the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme.

Powers of persons employed on such schemes.

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal Officers by section fourteen.

Rate on lands benefited by works.

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable.

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits :—

(1). Six per cent. per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate :

(2). In the case of agricultural land, the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work.

Such rate may be varied from time to time, within such maximum, by the Local Government.

So far as any defect to be remedied is due to any canal, water-course, road, or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect shall be borne by such Government or such person as the case may be.

Recovery of rate.

60. Any such drainage-rate may be collected and recovered in manner provided by sections forty-five, forty-six and forty-seven, for the collection and recovery of water-rates.

Disposal of claims to compensation.

61. Whenever, in pursuance of a notification made under section fifty-five, any obstruction is removed or modified,

or whenever any drainage-work is carried out under section fifty-seven,

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all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work may be made before the Collector, and he shall deal with the same in the manner provided in section ten.

Limitation of such claims.

**62.** No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

## PART VIII.

### Of Obtaining Labour for Canals and Drainage-works.

Definition of 'labourer.'

**63.** For the purposes referred to in this Part, the word 'labourer' includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government.

Power to prescribe number of labourers to be supplied by persons benefited by canal.

**64.** In any district in which a canal or drainage-work is constructed, maintained, or projected by Government, the Local Government may, if it thinks fit, direct the Collector

(*a*) to ascertain the proprietors, sub-proprietors, or farmers, whose villages or estates are or will be, in the judgment of the Collector, benefited by such canal or drainage-work, and

(*b*) to set down in a list, having due regard to the circumstances of the district and of the several proprietors, sub-proprietors, or farmers, the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate, for employment on any such canal or drainage-work when required as hereinafter provided.

The Collector may, from time to time, add to or alter such list or any part thereof.

Procedure for obtaining labour for work urgently required.

**65.** Whenever it appears to a Divisional Canal Officer duly authorized by the Local Government, that, unless some work is immediately executed, such serious damage will happen to any canal or drainage-work as to cause sudden and extensive public injury,

and that the labourers necessary for the proper execution thereof cannot be obtained in the ordinary manner within the time that can be allowed for the execution of such work so as to prevent such injury,

the said officer may require any person named in such list to furnish as many labourers (not exceeding the number which, according to the said list, he is liable to supply) as to the said officer seems necessary for the immediate execution of such work.

Every requisition so made shall be in writing, and shall state

(*a*) the nature and locality of the work to be done,

(*b*) the number of labourers to be supplied by the person upon whom the requisition is made, and

(*c*) the approximate time for which and the day on which the labourers will be required;

and a copy thereof shall be immediately sent to the Superintending Canal Officer for the information of the Local Government.

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The Local Government shall fix, and may from time to time alter, the rates to be paidto any such labourers: provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation.

The Local Government may, with the previous sanction of the Governor-General in Council, direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage.

NOTE.—The rate at which the labourers called out under this section on the Mooltan canals will be paid has been fixed at 6 annas a day.—(*No.* 3698 *I, dated 3rd October* 1881—*Punjab Gazette of 6th idem*).

Liability of labourers under requisition.

**66.** When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid.

## PART IX.

### OF JURISDICTION.

Jurisdiction under this Act of Civil Courts.

**67.** Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order.

Settlement of differences as to mutual rights and liabilities of persons interested in water-course.

**68.** When a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction, or maintenance of a water-course, any such person may apply in writing to the Divisional Canal Officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said matter. And, after such enquiry, he shall pass his order thereon, unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon enquire into and pass his order on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made, and shall thereafter remain in force until set aside by the decree of a Civil Court.

Power to summon and examine witnesses.

**69.** Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure; and every such inquiry shall be deemed a judicial proceeding.

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NOTE.—*Instructions to Canal Officers invested with Magisterial powers.*

Delay in the disposal of canal cases.

Cases having been brought to the notice of the Chief Court of great delay on the part of Canal Officers invested with Magisterial powers in disposing of breaches of Canal rules, and instances having occurred where persons charged with these offences had been summoned long distances to attend the Canal Officer's Court, the following instructions on the subject have been issued at the suggestion of His Honor the Lieutenant-Governor :—

When canal officers should abstain from exercising jurisdiction.

2. Whenever the disposal by a Canal Officer of a case of breach of Canal rules will involve a delay of more than 14 days, or will involve the summoning of parties and witnesses to a greater distance than if the case were taken up by the nearest Magistrate competent to receive and dispose of the complaint, the Canal Officer should abstain from exercising his jurisdiction.

Deputy Commissioner may withdraw cases from Canal Officer's Court.

3. It should also be remembered that the Magistrate of the District is competent, under Section 528 of the Code of Criminal Procedure, in cases other than those mentioned in the preceding paragraph, to withdraw any criminal case pending in a Canal Officer's Court, and to enquire into or try the case himself, or refer it for enquiry or trial to any other Court competent to enquire into or try the same, whenever it shall appear to him that such a course will promote the ends of justice or tend to the general convenience of the parties.

Canal officers as Magistrates are subordinate to the District Magistrate.

4. Canal Officers should further understand that in their Magisterial capacity they are subordinate to the Magistrate of the District, and it is the duty of the latter to exercise the same control and supervision over the proceedings of Canal Officers that he does over those of his Assistants.

Registers to be kept by Canal Officers.

5. Canal Officers are required to keep up Criminal Registers Nos. III, XVII, and XVIII, and to submit extracts thereof, monthly, to the Magistrate of the District, together with the files of the cases decided by them in their Magisterial capacity. These returns should reach the Magistrate not later than the 5th of the month following that to which they relate.

Fines.

6. The Government of India have ruled in P. W. D. Resolution No. 170A—I, dated 14th August 1869, that sums realized on account of fines imposed by Canal Officers are to be credited to Public Works Revenue, and not to Law and Justice.—*(Judicial Circular No. LXXXV).*

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## PART X.

### OF OFFENCES AND PENALTIES.

Offences under Act.

**70.** Whoever, without proper authority, and voluntarily, does any of the acts following, that is to say,—

(1) damages, alters, enlarges, or obstructs any canal or drainage-work ;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over, or under any canal or drainage-work ;

(3) interferes with or alters the flow of water in any river or stream, so as to endanger, damage, or render less useful any canal or drainage-work ;

(4) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner ;

(5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used ;

(6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal;

(7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon ;

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(8) being liable to furnish labourers under Part VIII of this Act, fails, without reasonable cause, to supply or to assist in supplying the labourers required of him;

(9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour;

(10) destroys or moves any level-mark or water-guage fixed by the authority of a public servant;

(11) passes, or causes animals or vehicles to pass, on or across any of the works, banks, or channels of a canal or drainage-work contrary to rules made under this Act, after he has been desired to desist therefrom;

(12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

shall be liable, on conviction before a Magistrate of such class as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

Penalty.

NOTE.—The Lieutenant Governor has directed that Magistrates of the 2nd Class shall be competent to hear and determine cases falling under Section 70 of this Act.—(*Notification No.* 286, *dated* 25*th March* 1884—*Punjab Gazette of* 27*th idem*).

**71.** Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Saving of prosecution under other laws.

**72.** Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to the person injured by such offence.

Compensation to person injured.

**73.** Any person in charge of or employed upon any canal or drainage-work, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who, within his view, commits any of the following offences:

Power to arrest without warrant.

(1) wilfully damages or obstructs any canal or drainage-work;

(2) without proper authority interferes with the supply or flow of water in or from any canal or drainage-work, or in any river or stream, so as to endanger, damage, or render less useful any canal or drainage-work.

**74.** In this Part the word 'canal' shall (unless there be something repugnant in the subject or context) be deemed to include also all lands occupied by Government for the purposes of canals, and all buildings, machinery, fences, gates and other erections, trees, crops, plantations, or other produce, occupied by or belonging to Government, upon such lands.

Definition of 'canal.'

## PART XI.

### OF SUBSIDIARY RULES.

**75.** The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, make rules to regulate the following matters:—

Power to make, alter and cancel rules.

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(1) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(3) the persons by whom, the time, place, or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(4) the amount of any charge made under this Act;

(5) and generally to carry out the provisions of this Act.

The Local Government may from time to time, with the like sanction, alter or cancel any rules so made.

Publication of rules.

Such rules, alterations and cancelments shall be published in the local official Gazette, and shall thereupon have the force of law.

NOTES.—(*a*).—The following schedules of water-rates for irrigation and for other purposes as well as navigation tolls leviable on the following Irrigation Works in the Punjab, *viz*:—

Western Jamna Canal,

Bári Doáb Canal,

Delhi and Gurgáon works,

having received the sanction of the Government of India, have been issued by the Hon'ble the Lieutenant-Governor under Section 75.—(*Notification No.* 4068 *I, dated 29th September* 1873—*Punjab Gazette of 2nd October* 1873).

SCHEDULE OF RATES.

WESTERN JAMNA CANAL.

*Occupier's Rates.*

| Description of Crops. | *Per Acre.* By Overflow. | *Per Acre.* By Lift. |
|---|---|---|
| *Class I.* | | |
| Sugar-cane ... ... ... ... ... | Rs. 5 0 0 per crop per annum. | Rs. 3 5 4 per crop per annum. |
| Gardens ... ... ... ... ... | | |
| *Class II.* | | |
| Rice ... ... ... ... ... ... | Rs. 3 0 0 per crop. | Rs. 2 0 0 per crop. |
| Tobacco ... ... ... ... ... | | |
| Opium ... ... ... ... ... | | |
| Vegetables ... ... ... ... ... | | |
| Water-nuts (Singháras) ... ... ... | | |
| *Class III.** | | |
| Indigo ... ... ... ... ... | Rs. 2 4 0 per crop. | Rs. 1 8 0 per crop. |
| Cotton ... ... ... ... ... | | |
| All Rabí Corps ... ... ... ... | | |
| *Class IV.* | | |
| All Kharif Crops not specified above ... | Rs. 1 10 8 per crop. | Re. 1 0 0 per crop. |
| *Class V.* | | |
| A single watering before sowing, or to fallow lands .. ... ... ... ... | Rs. 1 0 0 | Re. 0 10 0 |

* With the sanction of His Honor the Lieutenant-Governor, the following corrections are made in the schedules of water-rates under Act VIII of 1873, published at page 588 of the *Punjab Gazette* for 1873, Part I:—

*Occupier's Rates, Western Jamna Canal.*

In Class III *for* indigo, cotton and all rabi crops, *read* indigo, cotton, torea, and all rabi crops.—(*No.* 2874 I, *dated* 14*th July* 1874—*Punjab Gazette of* 16*th idem*).

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WESTERN JAMNA CANAL.

*Charges for use of Water for purposes other than Irrigation.*

| Description. | Rate. | Per |
|---|---|---|
| | Rs. A. P. | |
| Watering cattle ... ... ... ... | 6 0 0 | 100 per annum |
| ,, sheep and goats ... ... ... | 2 0 0 | 100 ,, |
| Filling tanks, or water in bulk ... ... | 1 0 0 | 6,000 cubic ft. |

WESTERN JAMNA CANAL.

*Navigation Tolls.*

| Description. | Rate. | Per |
|---|---|---|
| *Along whole course of Canal.* | Rs. A. P. | |
| Rafts, Sal Timber, 1st Class, above 5 feet girth ... ... | 40 0 0 | 20 |
| ,, ,, 2nd ,, 4 feet to 5 feet ,, ... ... | 30 0 0 | 20 |
| ,, ,, 3rd ,, under 4 feet ,, ... ... | 20 0 0 | 20 |
| ,, Tun Timber, 1st ,, above 5 feet ,, ... ... | 30 0 0 | 20 |
| ,, ,, 2nd ,, 3½ feet to 4 feet ,, ... ... | 20 0 0 | 20 |
| ,, ,, 3rd ,, under 3½ feet ,, ... ... | 10 0 0 | 20 |
| ,, Sissu Timber 1st ,, above 4 feet ,, ... ... | 20 0 0 | 20 |
| ,, ,, 2nd ,, 2½ feet to 4 feet ,, ... ... | 10 0 0 | 20 |
| ,, ,, 3rd ,, under 2½ feet ,, ... ... | 5 0 0 | 20 |
| ,, Babul Timber or Spars ... ... ... ... ... | 5 0 0 | 20 |
| ,, Ash Spars ... ... ... ... ... ... ... | 10 0 0 | 20 |
| ,, Fir ... ... ... ... ... ... ... ... | 10 0 0 | 20 |
| ,, Kohlu (Sugar or Oil Presses) .. ... ... ... | 20 0 0 | 20 |
| ,, Sál Golab (round logs) 1st class, large ... ... ... | 10 0 0 | 20 |
| ,, ,, ,, ,, 2nd ,, small ... ... ... | 5 0 0 | 20 |
| ,, ,, Ballas (saplings) ... ... ... ... ... ... | 5 0 0 | 20 |
| ,, ,, Batahs (small logs) ... ... ... ... ... | 5 0 0 | 20 |
| ,, ,, Tarracks (rafters) ... ... ... ... ... | 2 8 0 | 20 |
| ,, ,, Pharahs (side slabs), 1st class ... ... ... | 2 8 0 | 20 |
| ,, ,, ,, 2nd ,, ... ... ... ... | 1 14 0 | 20 |
| ,, ,, ,, 3rd ,, ... ... ... ... | 1 4 0 | 20 |
| ,, ,, Karries (Joists) 1st class, above 12 feet long ... | 1 4 0 | 20 |
| ,, ,, ,, 2nd 9 feet to 12 feet ... ... | 0 15 0 | 20 |
| ,, ,, ,, 3rd under 9 feet ... ... | 0 10 0 | 20 |
| ,, ,, Tors (straight places free from knots), 1st class ... | 1 4 0 | 20 |
| ,, ,, ,, ,, ,, 2nd class ... | 0 15 0 | 20 |
| ,, ,, Ballis (small saplings) ... ... ... ... ... | 0 10 0 | 20 |
| ,, ,, Plank Packs, 1st class, above 2½ feet girth ... ... | 5 0 0 | 20 |
| ,, ,, ,, ,, under 2½ ,, ,, ... ... | 2 8 0 | 20 |
| ,, ,, Plank ... ... ... .. ... ... ... | 0 0 2 | Foot. |
| ,, ,, for Kohlus (round beams) ... ... ... ... | 1 4 0 | 20 |
| ,, Taran ... ... ... ... ... ... ... | 0 15 0 | 20 |
| ,, Bamboos ... ... ... ... ... ... ... | 0 8 0 | 100 |
| ,, Fire-wood ... ... ... ... ... ... ... | 1 0 0 | 100 maund. |
| ,, Sarkandah (reads) ... ... ... ... ... ... | 1 0 0 | 100 bundles |
| ,, Grass ... ... ... ... ... ... ... | 0 8 0 | 1,000 ,, |
| ,, Bán (grass twine) ... ... ... ... ... | 1 0 0 | 100 maunds |
| *For Intermediate distances.* | | |
| From Canal Head to Karnal ... ... ... ... ... | One-half of above rate | |
| ,, Karnál to Delhi Branch Regulating Bridge ... ... | One-eight of above rate | |
| ,, Delhi Branch Regulating Bridge to Bali Bridge Delhi ... | ,, ,, | |
| ,, Branch Bali Bridge to Bowána Bridge, Delhi Branch ... | ,, ,, | |
| ,, Delhi Branch Regulating Bridge, to Chapper Bridge, Hansi | ,, ,, | |
| ,, B Chapper Bridge to the Rama Bridge, Hansi Branch ... | ,, ,, | |

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DELHI AND GURGAON WORKS.

*Occupiers' Rates for Irrigation.*

| Description. | Rate. | Per |
|---|---|---|
| | Rs. A. P. | |
| All Crops ... ... ... ... ... ... ... ... | 0 6 $4\frac{4}{5}$ | Acre. |
| Grass ... ... ... ... ... ... ... ... | 0 8 $2\frac{4}{5}$ | |

BARI DOAB CANAL

*Occupiers' Rates (Section 36).*

| Description of Crops. | *Per Acre.* By Overflow. | *Per Acre.* By Lift. |
|---|---|---|
| | Rs. A. P. | Rs. A. P. |
| Class I.—Sugar-cane ... ... ... ... ... | 6 0 0 per crop. | 3 0 0 per crop. |
| Class II—Rice. ... ... ... ... ... | 4 12 0 ,, | 2 6 0 ,, |
| Gardens ... ... ... ... ... | 4 12 0 per ½ year | 2 6 0 per ½ year |
| Class III—*Kharif Crops*— | | |
| Cotton ... ... ... ... | | |
| Hemp ... ... ... ... | | |
| Indigo ... ... ... ... | | |
| Turmeric ... ... ... ... | | |
| Sesamum (Til) ... ... ... | | |
| Vegetables ... ... ... ... | | |
| Water-nuts ... ... ... ... | | |
| Orchards or Plantations of Fruit Trees | | |
| *Rabi Crops*— | | |
| Wheat ... ... ... ... | | |
| Barley ... ... ... ... | 2 8 0 per crop. | 1 4 0 per crop. |
| Linseed ... ... ... ... | | |
| Sarson (*Cinaper Juncea*) ... ... | | |
| Taramira (*Cinaper Eruca*) ... | | |
| Mustard (*Campestris*) ... ... | | |
| Poppies ... ... ... ... | | |
| Tobacco ... ... ... ... | | |
| Tukhm-malanga (*Lallemantia Royleana*) | | |
| Safflower ... ... ... ... | | |
| Vegetables ... ... ... ... | | |
| Chillies, &c. ... ... ... | | |
| Class IV—*Kharif Crops*— | | |
| Jowar (Great Millet) ... ... | | |
| Bajra (Spiked Millet) ... ... | | |
| Kangni (Italian Millet) ... ... | | |
| Maize ... ... ... ... | | |
| Not elsewhere mentioned ... ... | | |
| *Rabi Crops*— | | |
| Gram (*Cicer Arietinum*) ... ... | 1 8 0 per crop. | 0 12 0 per crop. |
| Masar (*Ervim Lens*) ... ... | | |
| Urad or mash, &c. (*Phaseolus Roxburghii*) | | |
| Grasses ... ... ... ... | | |
| Sinji (*medicago*) ... ... ... | | |
| Not elsewhere mentioned ... | | |
| Fallow lands ... ... ... | | |
| Rabi crops not receiving water after December ... ... ... ... | | |
| Class V—A single watering before sowing, or to fallow lands ... ... ... | 0 12 0 ,, | 0 6 0 ,, |

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BARI DOAB CANAL.

*Charges for use of Water for purposes other than Irrigation.*

| Description. | Rate. | Per |
|---|---|---|
| | Rs. A. P. | |
| Watering Cattle ... ... ... ... | 6 0 0 | 100 per annum. |
| ,, Sheep and Goats... ... ... | 2 0 0 | 100 ,, |
| Filling Tanks, or Water in Bulk ... .. | 1 0 0 | 2,500 cubic ft. |

BARI DOAB CANAL.

*Navigation Tolls, per Mile of Canal traversed.*

| Description. | Rate. | Per |
|---|---|---|
| | Rs. A. P. | |
| Rafts of Timber of all sorts ... ... | 0 1 0 | Rs. 100 of value at starting place. |
| ,, of Bamboos ... ... ... ... | 0 6 0 | 1,000. |
| ,, of Fire-wood, Hemp, Flax and Grass | 0 0 1 | 100 maunds. |
| ,, of Sarkandah (reeds) ... ... ... | 0 0 1 | 1,000 bundles. |

(*aa*). Under Rule 11 of the Rules framed under Act VIII of 1873, the Hon'ble the Lieutenant-Governor is pleased to sanction the following Schedule of Rates for the supply of water for purposes other than irrigation, and to declare them applicable to the undermentioned Canals,

2. The Schedules of Rates published in *Punjab Gazette* Notification No. 4068 E.I., dated 29th September 1873, are hereby cancelled in so far as they relate to the supply of water for such purposes.

REVISED SCHEDULE OF RATES FOR THE SUPPLY OF WATER FOR PURPOSES OTHER THAN IRRIGATION.

| *Purpose for which supplied.* | *Rate.* Rs. | A. | P. | |
|---|---|---|---|---|
| Brick-making and pisé wall building ... | 0 | 3 | 0 | per 100 cubic feet. |
| Laying concrete and brick or stone masonry... | 0 | 2 | 0 | ditto. |
| Metalling Roads ... ... ... | 10 | 0 | 0 | per mile. |
| Water supplied in bulk ... ... | 1 | 0 | 0 | per 2,500 cubic feet. |

*Canals to which the above Schedule is applicable.*

Western Jumna Canal.
Bari Doab Canal.
Sirhind Canal.
Swat River Canal.
Chenab Canal.
Upper Sutlej Canals.

(*No.* 3235, *I, dated* 11*th May* 1888, *Punjab Gazette of* 17*th idem, Part I*, page 420).

Under Rule 11 of the Rules framed under Act VIII of 1873, the Hon'ble the Lieutenant-Governor is pleased to declare that the Schedule of Rates for the supply of water for purposes other than irrigation, sanctioned in Punjab Government Notification No. 3235, I., dated 11th May 1888, is applicable to the undermentioned Inundation Canals, with the following proviso:—

*Irrigators* from the Canals specified in this Notification will be entitled to the free use of water for the purposes specified in the Schedule, and no charge shall be levied from them in respect of such use.

*Inundation Canals to which the Schedule is hereby made applicable.*

Lower Sutlej and Chenab Series of Inundation Canals.

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Indus Series of Inundation Canals.

Muzaffargarh Series of Inundation Canals.

(*No.* 5122 *I, dated* 24*th August* 1888, *Punjab Gazette, of* 30*th idem, Part I, page* 630).

(*b*).—The Hon'ble the Lieutenant-Governor is pleased to direct that the following rate for watering road-side trees from the Punjab Canals be added to the above schedules :

Half anna per tree per annum, applicable to all canals administered by the Canal Department in the Punjab.—(*Punjab Government No.* 4553 *I, dated* 15*th October* 1878, *Punjab Gazette of* 17*th idem*).

(*c*). For rates at which the use of canal water will be granted for working machinery, the rules for such grants, and the localities in which water-power is available for such purpose, see *Punjab Government Notifications No.* 4288 *I, dated* 17*th October* 1877 (*Punjab Gazette of* 18*th idem*); *and No.* 1065 *I, dated* 9*th March* 1878 (*Punjab Gazette of* 14*th idem*).

(*d*). The Honor the Lieutenant-Governor is pleased, with the previous sanction of the Governor-General in Council, to notify, under Section 75 of Act VIII of 1873, that the following water rates will be levied on lands irrigated in the Gurgaon district from the works known as the Kotila embankment and Chandni drainage works with their subsidiary works :—

OCCUPIER'S RATES, Section 36.

*Per acre.*

| | Rs. | A. | P. | |
|---|---|---|---|---|
| All crops ... | 0 | 6 | 8 | per crop. |

OWNER'S RATES, S. 37.

*Per acre.*

| | Rs. | A. | P. | |
|---|---|---|---|---|
| All crops ... | 0 | 3 | 4 | per crop. |

*Proviso* 1st.—The owner's rate shall nowhere exceed the sum which, under the rules for the time being in force for the assessment of land revenue, might be assessed on such lands on account of the increase in the annual value or produce thereof caused by the canal.

*Proviso* 2*nd*.—All lands irrigated from wells or other sources at the time of the last Settlement, and then assessed at irrigated rates, shall be excluded from the operation of owner's rates.—(*Notification No.* 299, *dated* 15*th March* 1879, *Punjab Gazette of* 20*th idem*).

(*e*). It is hereby notified, under Section 75 of Act VIII of 1873, that the Hon'ble the Lieutenant Governor, with the previous sanction of the Governor-General in Council, is pleased to fix an occupier's rate of Rs. 2-8-0 per acre to be charged uniformly on all classes of crops irrigated by flow from the Chenab Canal.

The charge for lift irrigation will be two-thirds that for flow.

(*No.* 1329 *I, dated* 22*nd March* 1887, *Punjab Gazette of* 24*th idem, Part I, Page* 200).

(*f*). The following schedule of water-rates for irrigation on the Sirhind Canal, having received the sanction of the Government of India, is issued by the Hon'ble the Lieutenant-Governor of the Punjab under Section 75 of Act VIII. of 1873 :—

| Class. | Crops. | Rate per Acre. By flow. Rs. | A. | P. | By lift. Rs. | A. | P. |
|---|---|---|---|---|---|---|---|
| I. | Sugar-cane, rice, water-nuts ... | 7 | 8 | 0 | 5 | 0 | 0 |
| II. | Gardens, orchards, tobacco, poppies, vegetables, indigo, maize | 4 | 8 | 0 | 3 | 0 | 0 |
| III. | Cotton, fibres, all dyes (except Indigo); all rabbi crops (except gram and masur) | 3 | 12 | 0 | 2 | 8 | 0 |
| IV. | All kharif crops, not specified above, and rabbi crops of gram and masur. | 2 | 10 | 0 | 1 | 12 | 0 |
| V. | Single watering before ploughing for fallow lands ... | 0 | 12 | 0 | 0 | 8 | 0 |
| VI. | Single watering for ploughing to sow ... | 1 | 8 | 0 | 1 | 0 | 0 |

(*Notification No* 0819 *I, dated* 24*th August* 1885, *Punjab Gazette of* 27*th idem, Part I, Page* 658).

(*g*). With the previous sanction of the Governor General in Council, and under the provisions of Section 75 of Act VIII of 1873, the Hon'ble the Lieutenant-Governor is pleased to rule that the following Schedule of Navigation tolls shall have force on the Western Jumna Canal with effect from the 1st January 1887 :—

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BOAT RATES.

| | Per month. Rs. A. P. | Per diem. Rs. A. P. |
|---|---|---|
| *Class A.*—Over 10 feet beam ... ... | 7 0 0 | 0 4 0 |
| ,, *B.*—Over 6 ,, and up to 10 feet beam | 5 0 0 | 0 3 0 |
| ,, *C*—Six feet beam and under ... ... | 2 0 0 | 0 2 0 |

Monthly passes will be issued on prepayment of a full month's toll. On the expiry of a pass the daily rate will be charged for every day a boat remains in the canal without a renewal of the pass.

The daily rates are subject to a minimum charge of 6 days toll when a boat leaves dock or enters the canal.

RAFT RATES.

| | Rs. A. P. |
|---|---|
| *1st Class.*—Logs, whether round or squared, exceeding 2½ feet in girth, and sleepers per 100 cubic feet of raft per mile (*with a minimum distance charge of* 40 *miles*) | 0 0 9 |
| *2nd Class.*—Logs less than 2½ feet in girth, including karis, ballis, bullahs, &c., per 100 cubic feet of raft per mile ... ... ... ... | 0 0 4 |
| *3rd Class.*—Bamboos and sirkandahs (reeds) per 100 cubic feet of raft per mile ... ... ... | 0 0 2 |
| *4th Class.*—Firewood per 1,000 cubic feet of raft per mile ... | 0 0 4 |

Special through rates for rafts of the 1st Class between the undermentioned stations and Delhi will be charged as follows :—

| | Rs A. P. | |
|---|---|---|
| Tajawala to Delhi ... ... ... ... | 4 6 8 | Per 100 cubic feet of raft. |
| Madalpur or Abdullapur to Delhi ... ... ... | 2 8 0 | |

This supersedes Notification No. 2978, dated 27th July 1880.

(*Notification No.* 183 *I., dated* 10*th January* 1887, *Punjab Gazette of* 20*th idem, Part I, page* 22).

(*h*). In exercise of the powers conferred on him by Act VIII of 1873, and with the approval of His Excellency the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to direct the publication of the following rules, and to declare them applicable to the undermentioned Canals :—

*The Bari Doab Canal and all its Branches.*
*The Western Jamna Canal and all its Branches.*
*The Upper Sutlej Inundation Canals.*
*The Lower Sutlej and Chenab Inundation Canals.*
*The Indus Inundation Canals.*
*The Inundation Canals in Shahpur and Bannu Districts under the control of Government.*

* RULES ISSUED UNDER ACT VIII OF 1873.

PART III.

OF CONSTRUCTION AND MAINTENANCE OF WORKS.

Section 18.

1. *Orders for construction of Works.*—The order which a Divisional Canal Officer may issue under Section 18 shall be in writing, and shall be served on each person concerned, or his representative, as a civil process, through the Deputy Commissioner.

Section 20.

2. *Proceedings of Superintending Canal Officers on reference.*—The Superintending Canal Officer before confirming or modifying a decision passed by the Divisional Canal Officer, under Section 20, shall hear and record any objections made to such decision by the parties interested, or their representatives, to whom at least fourteen days' notice of the date and of the place at which the Superintending Canal Officer will consider the Divisional Canal Officer's decision shall be given.

Section 24.

3. *Proceedings of Deputy Commissioner.*—The notice, which the Deputy Commissioner is bound to give to the Canal Officer under Section 24, shall not be less than fourteen days.

Section 29.

4. *Opening of new water-courses.*—Water shall not be admitted into any new water-course until all works necessary for the passage across such water-course of water-courses existing previous to its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, are completed to the satisfaction of the Divisional Canal Officer.

5 *Applications for water.*—All applications for water, or for the construction or improvement of water-courses, under Part III of the Act, shall be in the form prescribed in Appendix No. I.

* NOTE.—These rules have been modified and added to by Notifications No. 4233 I., dated 15th September 1879, and No. 3027 I., dated 11th August 1881. The amendments have been embodied.

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## PART IV.

### Of the Supply of Water.

Section 31

6. *Limit of length of water-courses.*—Water shall not ordinarily be granted to lands where the length of the water-course from is head to its point of contact with the fields exceeds two miles.

Section 16.

7. *Apprehended wastage.*—Applications under Section 16 of the said Act shall not be granted where, in the opinion of the Divisional Canal Officer, loss from wastage is likely to occur. From this decision an appeal may be preferred to the Superintending Canal Officer

7A.—Such applications shall not ordinarily be granted in respect of lands where the available supply of water in the Canal, distributary, or water-course is already fully utilized.

Section 31.

8. *Sanitary reasons.*—The Divisional Canal Officer shall not engage to grant water for the irrigation of any kharif crops upon lands within one mile from the outermost houses of any town, if such irrigation be objected to by the Municipal Committee (or if there be no Municipal Committee, by the Deputy Commissioner), and the objection is approved by the Superintending Canal Officer and the Commissioner of the Division. Should these Officers differ in opinion, the question will be referred to Government in the Irrigation Department, whose decision shall be final.

Section 31.

8A. *Prohibition of irrigation in the vicinity of Cantonments.*—When the Local Government has by a notification in the official Gazette declared that the irrigation of certain crops within a specified distance from the boundary of a cantonment ought not on sanitary grounds to be permitted, no engagement for a supply of water shall be made against the terms of such prohibition.

(*Punjab Government Notification No.* 3493 *I, dated* 26*th June* 1884, *Punjab Gazette of* 10*th July, Part I, page* 814).

Republished and made applicable to the Swat River Canal by No. 4444 I, dated 4th October 1887, *Punjab Gazette* of 6th idem, Part I, page 550.

Note.—With reference to Rule 8*a*, Section 31, Act VIII of 1873, His Honor the Lieutenant-Governor is pleased to prohibit the irrigation of rice from the Swat River Canal within a limit of one mile from the boundaries of the Cantonment of Mardan.

(*Notification No.* 599, *I, dated* 12*th August* 1884, *Punjab Gazette of* 21*st idem, Part I, page* 869).

Section 31.

9. *Preparation of fields.*—A Divisional Canal Officer may withhold or postpone the issue of water to any cultivator, whose fields he may have ascertained by personal inspection (by himself, one of his Assistants, or the Canal Deputy Collector) to be unprepared for irrigation by division into *kiaris* or compartments not greater in area than 36 feet by 36 feet, and by the addition of small water-channels, as is customary in irrigation from wells.

*a.*—When a field is irrigated which has not been so prepared, an additional charge may be imposed equal to half the amount of occupier's rate leviable on the field.

*b.*—Rice-fields and gardens are exempted from the operation of this rule.

*c.*—In each case the Divisional Canal Officer, the Sub-Divisional Canal Officer, or Canal Deputy Collector, must certify that he personally examined the field, and that it was not properly prepared for irrigation according to the terms of the rule.

*d.*—An appeal against the orders of the Divisional Canal Officer, may be preferred to the Superintending Canal Officer.

9A.—When a field is irrigated which has not been so prepared, an additional charge may be imposed, not exceeding half the amount of occupier's rate leviable upon the field.

Section 31.

10. *Filling of tanks for watering cattle.*—Tanks may be filled with canal water without charge, and without reference to the area irrigated in any village, whenever water can be made available without injury to the cultivation dependent on any canal, under the following regulations :—

I. Except as provided in Rule 12 (*a*), no tank shall be so filled unless exclusively used for domestic purposes and for watering cattle ; such tanks are generally in the immediate neighbourhood of villages.

II. No tank shall be so filled, which, intercepting any line of drainage, is liable to overflow from accumulation of water derived from natural causes.

III. No tank shall be so filled except on the written order of the Sub-Divisional Canal Officer, issued on the written applications of the parties concerned. The filling of tanks can only be permitted at such times and to such extent as the Sub-Divisional Canal Officer approves.

IV. No tank shall be so filled unless the water-course used to fill it shall be shown to the satisfaction of the Sub-Divisional Officer to be in a sound condition when the application is made.

V. Except as provided in Rule 12 (*d*), every tank so filled shall be used exclusively for domestic purposes or for watering cattle ; and in the event of any breach of the foregoing regulations by any person for whose benefit the tank has been so filled, or in the event of any

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such person using any tank so filled otherwise than for domestic purposes or for watering cattle, except as provided by Rule 12 (*a*), the privilege by this rule afforded may, in addition to any penalty which may be incurred under the Act, be suspended for 12 months by order of the Divisional Canal Officer passed on a regular proceeding and inquiry in each case; from his order an appeal may be preferred to the Superintending Canal Officer.

11. *Contracts.*—The Divisional Canal Officer, with the previous sanction of the Superintending Canal Officer, is empowered to make contracts for the supply of canal water for purposes other than irrigation, not specified in the schedule of rates, for any term not exceeding one year. For terms exceeding one year the previous sanction of the Local Government shall be necessary.

12. *Charges for water used for purposes other than irrigation.*—Tanks may be filled with canal water for purposes other than those stated in Clause I. of Rule 12: such water will be charged for at rates and subject to conditions to be determined by the Local Government in each case.

12A. Irrigation may also be carried on from tanks, provided the previous sanction of the Sub-Divisional Canal Officer be obtained. The usual rates will be charged for such irrigation.

13. *Water supplied to cantonments, towns &c.*—When water is supplied to forts or other military buildings, cantonments, civil stations, cities, towns, railways, public gardens or other places of public resort, either by filling of tanks or by direct flow, contracts at special rates may be accepted by the Divisional Canal Officer with the previous sanction of the Local Government.

14. *Water power.*—The use of water-power may be granted by the Divisional Canal Officer at such rates, and under such conditions, as may be sanctioned by the Local Government in each case.

15. *Tatils.*—Divisional Canal Officers are empowered, for purposes of administration, repairs and maintenance, to order the closure of any water-course for periods which shall not extend beyond twelve consecutive days. For longer closures the authority of the Superintending Canal Officer is required.

Section 32 (*a*).

16. Orders for closures under Rule 15 must be notified either—

Section 32 (*a*).

(*a*) by a notification.

(*b*) by a special order.

Such notification or order shall be in writing under the hand of the Divisional Canal Officer, and a copy shall be conveyed by the Canal establishment with due expedition to each village concerned, and delivered to the Patwari, or, in his absence, to any Lambardar. The receipt of each person to whom a copy of the notification or order is delivered shall be affixed to a schedule prepared for the purpose, which shall be recorded in the Divisional Canal office.

It shall be the duty of the Patwari or Lambardar who receives the notification or order above described to affix it at once in a conspicuous position in the village, and to make its purport generally known.

17. *Stoppage of supply in improperly maintained water-courses.*—Stoppage of supply of water to any water-course under Section 32 (*a*) (2) may be enforced when the Canal Officer ordering the stoppage has satisfied himself, by personal inspection, that the water-course is not maintained in proper repair. The order for such stoppage shall be in writing under the hand of the Divisional Canal Officer, and an immediate report shall be made to the Superintending Canal Officer, and the special grounds for stoppage explained. The Superintending Canal Officer's order shall be final.

Section 32 (*a*).

18. *Report of closures.*—Immediate report shall be made to the Superintending Canal Officer of all closures under case (1) Section 32 (*a*).

Section 32 (*a*).

19. Nothing in the foregoing rules shall be taken to affect the power of a Canal Officer to close any water-course, or stop any supply of water on his own authority in cases which he deems to be of pressing emergency.

20. *Claims for remission.*—All claims for remission of occupier's rate under Section 32 (*b*) shall be made to the Divisional Canal Officer previous to the cutting of the crop. The Divisional Canal Officer may reject or admit any claim. If the claim be admitted, the Divisional Canal Officer may remit to the limit of 50 rupees in each individual case, provided that the aggregate remissions for any one village do not exceed 200 rupees. If the Divisional Canal Officer considers that higher remissions should be granted than those above specified, the sanction of the Superintending Canal Officer must be obtained. Pending the decision, the collection shall be suspended.

Section 32 (*b*).

Claim to remission of ordinary charges, other than occupier's rates, payable for the use of the canal water, shall only be admitted on proof of actual loss caused by the stoppage of supply; on proof of such loss, the whole, or any portion of the charges, may be remitted as hereinbefore provided.

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If a claim for remission of ordinary charges, other than occupier's rates, be rejected by the Divisional Canal Officer, the claimant may prefer an appeal to the Superintending Canal Officer.

## PART V.

### OF WATER-RATES.

Section 36.

21. *Charges for the use of water.*—The charge for the use of water shall be made on the area irrigated at the rates specified in the schedules for the time being in force, and subject to the following rules :—

Section 36.

22. *Charge leviable for "paleve" when no crop is sown.*—When a field receives the first or preliminary watering, and afterwards no crop is sown, the lowest rate of charge for "lift" or "flow," as the case may be, will be imposed. One watering after the crop has been sown shall be charged for at the rate leviable for the whole crop, or the whole year, as the case may be.

23. *Charge for mixed crops.*—If mixed crops be grown in the same field, the occupier's rate shall be calculated on the highest rated crop.

24. *Charge for different crops grown in the same field.*—If different crops be grown in different parts of the same field, the occupier's rate shall be calculated on the highest rated crop, unless the division between the crops shall have been clearly defined by a ridge not less than half a foot high.

25. *Charge leviable on fields re-sown.*—When the original crop sown in a canal-irrigated field fails, and is ploughed up, and a fresh crop sown in the same season, the occupier's rate to be levied is that due on the crop which comes to maturity.

Section 36.

26. *Occupier's rate for fields partly irrigated.*—If only a portion of a field be irrigated, the occupier's rate shall be chargeable on the whole field unless such portion shall have been clearly demarcated by a ridge not less than half a foot high.

Section 36.

27. *Charge leviable on fields partly irrigated from canals, partly from wells or other sources.*—Where a portion of a field has been irrigated with the canal water, and a portion with water from a well or any other source, the whole field will be treated as irrigated with canal water, unless a clearly distinguishable boundary demarcated by a ridge not less than half a foot high exists between the two portions. Where such a boundary exists, enquiry will be made whether the use of water from a well or any other source was owing to deficiency in the supply of canal water, in which case the canal charge on the portion irrigated by canal water should be reduced to lift rates.

Section 36.

28. *Use of canal water-courses for conveyance of water from a well or any other source.*—If water from a well or any other source is conveyed in the same channel as canal water in the course of the same season, the whole of the irrigation from that channel during such season is liable to be treated as irrigation from the canal.

Section 36.

29. *Charge leviable for permanent irrigation from escapes.*—Irrigation from escape channels, when the supply is permanent, shall be governed by the same rules as irrigation from other parts of the canal.

30. *Charge leviable for intermittent irrigation from escapes.*—Irrigation from such channels, when the supply is intermittent, may be allowed at such reduced rates as shall from time to time be fixed by the Local Government in each case.

31. When a natural drainage channel or reservoir, not being part of the canal, is used as an escape channel, if it is so used at the request of persons desirous of irrigation from it, the same rates shall be chargeable for irrigation from it as for irrigation from an escape channel. Provided that the area, if any, irrigated from it previous to the introduction of canal water shall not be liable to water rate ; the amount of such area shall be determined by the Deputy Commissioner. In all cases in which water is supplied under this rule, a written contract shall be executed, setting forth the terms on which it is supplied.

32. *Charge leviable for the unauthorized use of water.*—Persons irrigating from a Canal without permission, or taking water at times prohibited by proper authority, shall be chargeable with a special water rate which shall be double the water rate which would have been chargeable for the authorized irrigation of the area irrigated.

The area shall be measured, and notice shall at once be given to the persons so irrigating that they will be charged in the demand statement double rates under this rule for the area thus watered.

Section 36.

33. *Charge leviable for "Ab-zai" (waste of water).*—The charges leviable for water used in an unauthorized manner, or suffered to run to waste, shall be—

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(1).—On cultivated lands, —double the crop rate which would otherwise be leviable on the area flooded.

(2).—On uncultivated lands,—the flow rate chargeable for a first watering before sowing

The area shall be measured up as soon as possible, and the persons chargeable with this rate having been determined in accordance with the provisions of Section 33 of Act VIII of 1873, notice shall be given to them that they will be charged accordingly in the demand statement.

The special rates mentioned in this and the preceeding rule shall be in addition to such penalties as may be imposed under Section 70 of the Act.

33 A. In cases where an addition is made to the occupier's rate by way of penalty as in Rule 9 A, and Rules 32 and 33, the original amount of the occupier's rate only, and not such additional amount shall be taken as the basis for calculating owner's rate.

34. An appeal against any charges made under Rules 22 to 33 inclusive may be preferred to the Commissioner.

Section 75.

35. *Schedule of rates to be accessible to villagers.*—The Patwari of every village irrigated by canal shall be furnished by the Divisional Canal Officer with a statement in Hindi, or the current written language of the District, showing the rates of assessment of each class of produce per ordinary local and canal measurements, which statement shall be suspended in the Chaupal or other place of public resort.

Section 47.

36. *Patwaris' fees.*—The allowance to Patwaris employed in the Irrigation Department shall be 2 per cent. on the amount of collection; this payment to be conditional on their affording satisfaction to the Divisional Canal Officer in respect to their duties in connection with the measurements and assessments, and to the Deputy Commissioner in respect to their duties connected with the collection of canal revenue.

Section 47.

37. *Lambardars' fees.*—The allowance to Lambardars, or other persons collecting from cultivators, shall be 3 per cent. on the amount collected, on condition that the full amount due has been paid within three months of the issue of the demand statement, and that the Lambardar has performed his duty connected with the assessment, such as personal attendance or deputation of a proper substitute at the time of measurement, and correct report of irrigation.

Provided that it shall be at the discretion of the Deputy Commissioner or Divisional Canal Officer, as the case may be, subject to the appeal allowed by Rule 76, to withhold the whole or part of the allowances prescribed in Rules 36 and 37, in the event of the conditions not being complied with.

## PART VI.

### NAVIGATION.

PART VI.—Sec. 49.
Sec. 51.
Sec. 53.

38. *Tolls.*—When a Government canal shall have been declared by the Local Government open for navigation, tolls and charges on boats and rafts plying thereon shall be levied on such a system and at such rates, as shall be from time to time determined by the Local Government with the approval of the Government of India; such system and rates being published by notification in the *Government Gazette*.

39. *Ferries.* Ferry boats shall not be permitted to ply on the canal except under a written license, in the form contained in Appendix II., from the Divisional Canal Officer, and subject to conditions therein laid down. An appeal against an order revoking such license may be preferred within fifteen days to the Superintending Canal Officer.

40. *Measurement.*—Every boat or raft entering a Government canal shall be liable to measurement, for the purpose of ascertaining the amount of toll the boat or raft shall pay according to the Schedule of rates in force for the time being.

41. *Number.*—Every boat, at the time of first measurement, shall be given a serial number by which it shall be distinguished while plying on the canal. The number shall be fixed on the port or left hand bow of the boat and shall not be less than eight inches in height, and shall be of such a colour as to be easily distinguishable at a distance of 100 yards.

42. *Ticket.*—Every boat on entering a canal shall be furnished with a ticket, in the form contained in Appendix III., which shall specify the number of the boat, the date on which it entered the canal, the name of the owner of the boat, his occupation and place of abode, and the name of the person in charge of the boat. Upon leaving the canal, the Divisional Canal Officer shall enter on the ticket the date of leaving and shall return the ticket to the person in charge of the boat.

43. *Dimensions.*—No boat above 14 feet beam over all shall be allowed in a canal on which the locks are 16 feet in width, and no boat above 18 feet beam over all in a canal on which the locks are 20 feet in width. No raft of more than 14 feet in width and 90 feet in length shall be

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allowed on any canal the locks of which are 16 feet; and no raft of more than 18 feet in width and 100 feet in length will be allowed in a canal the locks of which are 20 feet in width.

44. *Tolls payable in advance.*—Tolls on boats are payable in advance, and no boat shall be allowed to leave any canal on which it is plying until all such tolls and charges have been duly liquidated. The officer granting permission for the boat's removal shall sign the certificate at the foot of the ticket given under Rule 42 (Appendix III.) after satisfying himself that all claims against the boat have been paid.

45. *Receipt for tolls.*—Tolls may be paid either to the Divisional Canal Officer, or to the person appointed by him, hereinafter called the Agent, at any of the toll stations, and a receipt, in the form contained in Appendix IV. shall be granted for the same.

46. *Pass for boats.*—Upon any boat plying on a canal being freighted, the owner or person in charge shall declare to the Divisional Canal Officer or his Agent at the place of loading (or if there be none there, to the first he may pass on his journey), an invoice of the cargo, showing the nature, weight, value and destination. The Divisional Canal Officer or his Agent shall thereupon furnish such person in charge with a pass, in the form contained in Appendix V., specifying the foregoing particulars, which pass shall be delivered up to the Agent nearest to the place at which the vessel is unloaded.

47. *Pass to be shown when required.*—It shall be obligatory on the person in charge of a boat to show the pass granted under Rule 42, when called upon to do so by the Divisional Canal Officer or his authorized agent.

48. *Every boat or raft to be navigated by two persons.*—No boat or raft shall be navigated by less than two persons.

49. *Pass for rafts.*—Passes in the form shown in Appendix VI. shall be granted to persons wishing to float rafts down a canal upon application to the Divisional Canal Officer or the nearest Agent. No raft unprovided with a pass shall enter a canal.

50. *Removal of rafts from canal.*—On reaching the destination specified in the pass, the person in charge of a raft shall, within 24 hours, deliver the said pass to the local Agent, who, if all is in good order, shall authorize the removal of the raft which shall be effected within 48 hours from the time of permission being granted, unless written authority to defer removal be given by the Agent.

51. *Divisional Canal Officer empowered to remove rafts.*—Rafts not removed within the time required by Rule 50, and rafts found unattended, may be taken out of the water by the Divisional Canal Officer or his Agent.

52. *Rafts without passes.*—Any raft found in a Government canal unprotected by a pass may be charged with double toll reckoned on the distance from the head of the canal to the place where such raft shall be removed from the canal.

53. *Double rates to be charged for excess over quantity shown in pass.*—Double rates shall be leviable on all articles in excess of the quantity of each kind specified in the pass granted under Rule 49.

54. *Removal of rafts lodging against Canal works.*—Every person floating a raft in a canal shall so navigate it that it shall not lodge against any canal works; and if any raft so lodges or causes obstruction, it shall at once be broken up and removed by any Canal Officer on the spot.

55. *Masts.*—Boats must have their masts fitted so that they can be let down with ease and speed; and no mast shall be so high as to strike or scrape any bridge under which the boat may pass.

56. *Boats and rafts to be fastened fore and aft.*—Every boat or raft which is brought-to alongside of a canal bank or wharf must be securely fastened fore and aft to the bank or wharf: no boat or raft can be brought up outside another so moored without the permission of the Divisional Canal Officer.

57. *Boats and rafts to be moored so as not to obstruct traffic.*—No boat or raft shall be placed in such a position as to endanger the safety of other boats or rafts, or to obstruct the passage, or to impede navigation; and no bamboos or poles shall be allowed to be erected, or to remain erected on vessels moored to the bank.

58. *Every boat or raft when brought-to to have some one on board.*—Every boat and raft when brought-to shall at all times have some person in attendance on board.

59. *Wrecks.*—In every case of a wreck or obstruction of a canal channel by a sunken, or partially sunken, boat or raft, the Divisional Canal Officer may call upon the owner or person in charge to remove the same without delay. Should the owner or the person in charge not be forthcoming, or should he refuse to remove the wreck or obstruction, or should he not within 48 hours commence to remove the wreck or obstruction, then the Divisional Canal Officer may undertake the removal under Section 49 of the Act.

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60. *Banks or berms not to be used as wharves.*—The banks or berms of the canal shall not be used as wharves for the deposit of goods, except with the permission of the Divisional Canal Officer, or of some person authorized in his behalf.

61. *Goods to be removed from canal lands.*—All goods shall be removed from canal lands within seven days, unless the written permission of the Divisional Canal Officer be obtained to their remaining longer. All goods deposited on canal lands must be properly stacked, and so placed as not to interfere with other traffic. In the event of such goods not being removed when required, a charge of four annas per 100 maunds per diem shall be levied, when the goods are susceptible of being reckoned by weight, or a proportionate charge shall be determined by the Divisional Canal Officer when the goods are reckoned by number. This rule does not apply to canal ware-houses, for which special rules will be framed.

62. *Boats or rafts liable to be examined.*—Any boat or raft plying on a canal may be examined by any Canal Officer, of rank not inferior to a Sub-divisional Canal Officer, or by any agent, provided that there is reason to believe that the owner or the person in charge thereof is attempting to evade the canal rules.

63. *Canal closures.*—Any canal may be closed once a year for the execution of needful works, on one month's notice published in the *Government Gazette* of the intention so to close it. Any canal may also be closed at any time without notice in the event of any sudden emergency and no claim for compensation to any owner, or person in charge of any boat or raft navigating the canal, shall be created by unavoidable detention resulting from such closure; or from the depth of water being at any time unavoidably reduced in the canal; or from the failure of any weir, lock, bridge or other work in the canal bed. The fact of an emergent closure having been authorized shall be notified in the *Government Gazette.*

## PART VIII.

### Of obtaining Labour, &c.

PART VIII—Section 53.

64. Persons exercising the handicrafts detailed below shall, in addition to the agriculturists, be deemed labourers for the purposes referred to in Part VIII:—

| | |
|---|---|
| Workers in leather ... ... | *Mochi.* |
| Ditto oil ... ... ... | *Teli.* |
| Ditto earthenware ... | *Kumhar.* |
| Weaver ... ... ... ... | *Julaha.* |
| Washerman ... ... ... | *Dhobi.* |
| Water-carrier ... ... ... | *Bhisti.* |
| Barber ... ... ... ... | *Nai.* |
| Bearer ... ... ... ... | *Kahar.* |
| Fisherman ... ... ... | *Jhiwar.* |
| Millers generally ... ... | *Kahar.* |

## PART X.

### Of Offences and Penalties.

Section 70.

65. *Offences under Canal Act triable by Magistrates of the 2nd Class.*—The Lieutenant Governor is pleased, under Section 70 of the Act, to direct that charges of offences under that section shall be cognizable by a Magistrate of the 2nd Class.

Section 70—Clause 11.

66. No person, without the permission, in writing of the Divisional Canal Officer, shall pass, or shall cause any animal or vehicle to pass on or cross any of the roads, works, banks or channels of a canal, or drainage work, after he has been desired to desist therefrom, excepting upon such bridges, fords and ferries, and their approaches, as are provided by the Divisional Canal Officer.

## PART IX.

### Subsidiary Rules.

67. *Assessment and realization of occupier's rate.*—The amount demandable for occupier's rate shall be determined and apportioned by the Divisional Canal Officer, and the Deputy Commissioner shall realize the sums due.

Section 75.

68. *Khataoni to be accessible to villagers.*—The Patwari is responsible that the village copy of the *khataoni* or demand statement is at all times accessible to any person who pays for canal water.

69. *Distribution of parchas.*—As soon as the *khataoni* is completed, the Amin shall tender to each cultivator a *parcha*, or slip containing the particulars of water-rate due from him with the date on which it was given noted on it. All *parchas* remaining unclaimed shall be

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left for delivery with the Patwari of the village, or, in his absence, with the Lambardar. The *parchas* shall be in the form detailed in Appendix VII.

Section 75.

70. *Complaints against Khasrah entries.*—If a cultivator desires to contest the correctness of the entries made against him in the demand statement, whether as to the fact of the land having been irrigated, or of its being charged "flow" or "lift," or as to the measurement and entries of class or crop, he must lodge a complaint with the Divisional, or Sub-Divisional Canal Officer, or Deputy Collector, within twenty-one days of date of receipt of *parcha* by the cultivator; or, if he should not have received a *parcha*, within ten days of the date on which he first became acquainted with the claim against him, and the complaint must be investigated on the spot within fifteen days of receipt, and promptly decided.

The order of the Divisional or Sub-Divisional Canal Officer, or Deputy Collector in such cases shall be forthwith communicated to the complainant, and shall be subject to appeal to the Commissioner of the Division.

Section 75.

71. *Objections may be made by a Lambardar, &c., on behalf of cultivator.*—When a Lambardar or other person is responsible, under Sections 46 and 47 of the said Act, for the payment of the occupier's rates in a village or any portion of a village, complaints under these rules may be lodged by such Lambardar or Contractor, instead of by the cultivators, and any refund that may be necessary in consequence of the order passed upon objection so lodged, shall be paid by the Deputy Commissioner to such Lambardar or Contractor on account of the cultivators concerned.

72. *Method of dealing with alterations in the demand.*—If after the giving of the *parcha* any addition is made to the demand, or any reduction is allowed on a complaint under Rule 22 or 37, or by way or remission under Section 32, clause (*b*) of the Act or otherwise, such addition or reduction shall be communicated to the cultivator by means of supplimentary *parchas*. Demands shall be shown in black, and remissions in red, letters. All such alterations as are made before the despatch of the *khataoni* to the Deputy Commissioner shall be included in that document, and shall also be written on slips similarly printed (black for additions and red for reductions) and attached to the *khataoni*. Alterations made after the despatch of the *khataoni* shall be communicated to the Deputy Commissioner by means of similar slips.

73. *Objections to the demand.*—Objections to the demand urged before the Deputy Commissioner shall be referred by him to the Divisional Canal Officer, the collection not being suspended except on the receipt of an intimation from the Divisional Canal Officer that an objection has been admitted by him.

74. *Irrecoverable balances.*—Balances found to be irrecoverable owing to want of assets, absconding of defaulters, or any other such cause, and claims to refund on the ground of mistakes in collection, shall be dealt with by the Deputy Commissioner under the rules for suspension, remission and refund of land revenue.

Section 75.

75. *Payments of refunds.*—In all cases payment of refunds will be made by the Deputy Commissioner.

Section 75.

76. *Appeal against retrenchment of fees.*—An appeal against retrenchment of fees of Lambardars and Patwaris shall lie to the Commissioner of the Division or Superintending Canal Officer, according as the retrenchment has been made by the Deputy Commissioner or Divisional Canal Officer.

77. *Receipts for water-rate.*—Receipts shall, when demanded, be given by the Lambardar or other person making the collection to each cultivator on payment of occupier's rate.

Section 75.

78. *General prohibition.*—No person employed on a canal shall, without previous sanction obtained from the Divisional Canal Officer, have any interest in the distribution or use of water from the said canal, or purchase or bid for, any government property sold thereon, either in his own name, or in the name of another, or jointly, or in shares with others.

PROCEDURE.

79. *Special Rule of Procedure for the Dera Ghazi Khan District.*—In the Dera Ghazi Khan District appeals under Section 32 (*b.*) of the Act shall lie to the Superintending Canal Officer and those under Sections 33 and 34 shall lie to the Deputy Commissioner of the District.

OF APPEALS AND REFERENCES, AND THE PROCEDURE THEREIN.

80. *Interpretation.*—In the following Rules the expression "the Court" denotes the Officer to whom in the particular case an appeal may be preferred under the provisions of the Act, or the Rules made thereunder for the time being in force.

81. *No appeal except when expressly given.*—No appeal shall lie from any decision or order given or made under any provision of the Act, except where an appeal is expressly allowed by the Act or by the Rules made thereunder for the time being in force.

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82. *Period for appealing.*—The period for presenting an appeal shall be thirty days, unless any other period is expressly prescribed, and in the latter case the period so prescribed.

Extension of time.

But any appeal may be admitted after the period prescribed when the appellant satisfies the Court that he had sufficient cause for not presenting the appeal within such period.

If the period prescribed expires on a day when the Court is closed, the appeal may be presented on the day that the Court re-opens.

83. *Calculation of period.*—The period prescribed shall be calculated from the date of the decision or order appealed from, and in computing such period the day when the decision of order was made, and the time requisite for obtaining a copy of the decision or order appealed against, shall be excluded.

84. *Form of appeal.*—The application for admission of an appeal shall be stamped in accordance with the law in force relating to Court fees, and shall be accompanied by a copy of the decision or order appealed against, and shall state concisely the grounds upon which the appeal is preferred.

85. *When appeal may be summarily rejected.*—The application may be rejected if, upon a perusal of the grounds of appeal and the copy of the decision or order appealed against, it appears to the Court unnecessary to call for the proceedings.

86. *Procedure on admission of appeal.*—If the application be granted, an entry thereof shall be made in a register of appeals, numbered consecutively, and a day shall be fixed for the hearing of the appeal.

87. *Notice of hearing to be given.*—Notice of the date and place fixed for the hearing of the appeal shall be given to the appellant in such manner as the Court may direct, and to every other party to the case whose interest is opposed to that of the appellant in the manner hereinafter prescribed.

88. *Contents of notice.*—A written notice containing the title of the Court, the names of the parties, the date and place fixed for the hearing of the appeal and such other particulars as the Court may, by general or special order, direct, shall be issued in duplicate under the hand and seal of the Court.

89. *Mode of service.*—The notice shall be served by delivering one copy thereof, if practicable, to the person addressed therein, or, in his absence, to some adult male member of his family, or if none such be found, by leaving such copy at the addressee's usual place of residence Provided that, if the Court shall so direct, the notice may be served under registered cover sent through the Post Office.

90. *Acknowledgment of personal service.*—When personal service is effected, the addressee shall be required to acknowledge the service by affixing his signature, seal, or mark on the back of the duplicate copy to be retained by the serving officer.

91. *Memorandum by serving officer.*—The serving officer shall in every case endorse on the duplicate copy a memorandum signed by him of the date and mode of service, and return such copy to the Court which issued it.

92. *Cost of service.*—The cost of serving any notice shall be borne in the first instance by the party appellant, and shall be paid to the proper officer of the Court before such notice is issued. The charge made for service shall be in accordance with the lowest civil process scale for the time being in force.

93. *Hearing may be postponed or adjourned.*—The hearing of an appeal may be postponed or adjourned from time to time, as the Court may see fit by written order to direct, to any subsequent date, and notice of such date shall be given to the parties in such manner as the Court may direct.

94. *Attendance or representation of parties not essential.*—The attendance of the parties in person or by representative, shall not be necessary at the hearing of any petition of appeal, or of any appeal, but any party so attending shall be entitled to be heard.

95. *Court to be satisfied before hearing that notice has been received by parties.*—The Court shall not proceed to the hearing of any appeal unless and until it is satisfied that notice of the date and place fixed for such hearing has been received by the parties concerned in sufficient time to permit them to appear or to be represented at such hearing. Provided that the Court may presume that notice has been received when a written notice has been served in any of the ways described in Rule 89 above. Provided also that an appeal may be heard and decided, notwithstanding the absence of any party who is shown to the satisfaction of the Court to be wilfully evading service of notice.

What parties present.

96. *Procedure on hearing.*—(*a*). The Court, before passing its order or decision on the appeal, shall record in writing which (if any) of the parties to the appeal are present, in person or by representative, at the hearing thereof.

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(b). The Court, if it think further inquiry necessary, may conduct such inquiry itself, and in such case shall be deemed to be an officer with the powers described in Section 69 of the Act.

Further inquiry by appellate Court.

(c). When the hearing of the appeal is concluded, the decision or order of the Court shall, when practicable, be pronounced forthwith, and shall be recorded in writing signed by the Court, and the substance thereof shall be explained to such of the parties or their representatives as are present when the decision or order is passed or given.

The decision or order of Court.

(d). Every decision or order recorded in English shall be translated into Urdu, and the translation shall be authenticated by the signature of the Court and filed with the proceedings.

Translation thereof.

97. *Copy thereof to be sent to Subordinate Officer.*—A copy of the decision or order shall be transmitted by the Court to the Officer from whose decision or order the appeal was preferred.

98. *Copies to be granted to parties.*—A copy of the decision or order of the Court, in English or Urdu, shall be granted to any person concerned or interested therein, who shall apply for the same, upon payment of the proper Court fees and copying charges.

99. *Of re-hearing in certain events.*—If any party against whom an order or decision is made or given upon an appeal heard in his absence shall, within thirty days from the date of such order or decision, satisfy the Court that he had received no notice of the time and place fixed for the hearing thereof, or had not received such notice in sufficient time to permit him to appear and that he did not wilfully evade service thereof, the Court may pass an order, if it think such order requisite for the ends of justice (and not otherwise) upon such terms as appear just, setting aside its previous decision or order and grant a re-hearing, which shall be subject to the same rules as the hearing of an appeal.

100. *Power of revision by Financial Commissioner and Chief Engineer.*—The Financial Commissioner may at any time call for any case which has come before a Commissioner otherwise than under Section 19 of the Act, or before a Deputy Commissioner, and the Chief Engineer may at any time call for any case which has come before a Superintending or Divisional Canal Officer, and pass such orders thereon consistent with the Act and the rules made thereunder as may seem proper.

101. *Power of revision by Local Government.*—Orders passed by the Financial Commissioner shall be subject to review by the Local Government in the Revenue Department, and orders passed by the Chief Engineer to review by the Local Government in the Irrigation Branch, Public Works Department.

102. *Finality of orders and decisions of Appellate Court.*—Except as provided in the three last preceding rules, or as may be otherwise expressly provided in the rules for the time being in force, the order or decision passed upon any appeal shall be final.

103. *Scope of Rules.*—Nothing contained in the foregoing rules applies to the hearing of an appeal from any decision or order in a criminal case under the Act.

104. *Procedure upon reference under section 27.*—Upon a reference to the Commissioner under Section 27 of the Act the procedure shall, so far as may be, be the same as is prescribed in Rule 2 upon a reference under Section 20 of the Act.

105. Except as provided in Rule 2 and in the last preceding rule, no person shall be entitled to be heard in person or by representative before the Superintending Canal Officer Commissioner or other higher authority to whom, under the provisions of the Act or the foregoing rules, any matter is submitted or referred for sanction, approval, or decision. Nothing in this rule shall preclude the persons concerned from submittingfor the consideration of any such officer or authority petitions relating to any matter so submitted or referred.

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## APPENDIX I.

APPLICATION FOR WATER-COURSE FROM CANAL, VILLAGE PARGANNA , DISTRICT

FOR CROP OF 18 .

1. Name of applicant.
2. Name of supply-channel.
3. Proposed site of new outlet.
4. Approximate area of land to be irrigated.
5. Number of pipes required.
6. Irrigation by overflow or lift.
7. Approximate length of water-course.
8. Names of owners of lands to be traversed by water-course.

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9. Land irrigable from any existing outlet or not.
10. Number and names of intending shareholders (if any) in the outlet applied for.
11. Number of outlets now in supply-channel { Right bank. Left bank.
12. Width of bank, including slope and pathway.
13. Number of outlets now allotted to village.
14. Culturable area { Whole village. Applicant's lands.
15. Area already provided with irrigation { In village. In applicant's holding.

*N. B.*—Columns 11—15 to be filled in in Canal Office.

## APPENDIX II.

License for Ferry Boat Canal.

Position of ferry.
Dimensions of boat or raft.
Name of person to whom license is granted.
Period for which license is granted.
Tolls leviable at ferry.

CONDITIONS

This license may be revoked without any compensation thereby becoming claimable by the licenser if tolls be levied in excess of those specified above, or if the boat be not maintained in proper working condition, or if delays or obstructions to travellers occur, or for other fault which in the judgment of the Divisional Canal Officer demands it. Appeals against the orders of the Divisional Canal Officer shall lie to the Superintending Canal Officer.

(Sd.) A. B.,
*Executive Engineer,*
*Division* *Canal.*

Station and date.

## APPENDIX III.

No. TRAFFIC DEPARTMENT. CANAL

PASS TICKET. 18 .

Boat No.
Date of entry.
Owner's name.
Occupation.
Residence or place of business.
Name of person in charge.
Measurement of boat.
Estimated carrying capacity maunds.
Tolls paid from 18 to 18 .
Amount Rs Annas Pies
By whom issued.
Date of leaving Canal. *Navigation* *Station.*

I hereby certify that all demands against Boat No. for tolls, right of way, damage to canal works, &c., &c., up to date, have been satisfied.

*Navigation Agent.*

## APPENDIX IV.

No. TRAFFIC DEPARTMENT, CANAL.

18 .

Received from
Rupees Annas Pies being amount of toll on boat No.
From To
Rs.

*Navigation Department* *Canal,*
*In Charge of* *Station.*

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## APPENDIX V.

No. TRAFFIC DEPARTMENT, CANAL.

PASS FOR BOAT No.

*Station, dated* 18 .

1. Date of departure.
2. Name and address of owner of boat.
3. Name and address of owner of cargo.
4. Description of cargo.
4. Weight of cargo in maunds (Government).
6. Place of departure on canal.
7. Destination of canal.
8. Ultimate destination.
9. Distance by canal.
10. Rate of freight.
11. Amount of freight.
12. Value of cargo.
13. Number of passengers.
14. Remarks.

*Signature of Navigation Agent.*

## APPENDIX VI.

No. TRAFFIC DEPARTMENT CANAL.

RAFTING PASS 18 .

FROM To

Distance miles

Description of rafts

Dimensions

Cubic contents

Rate of Tolls, Rs.

Amount paid, Rs.

Estimated value of rafts, Rs.

Name of owner

Residence

Name of person in charge

Date of entering Canal (*Signature.*)

Rs. *Canal.*

RECEIVED AT *Station.*

*of* 18 *Navigation Agent.*

## APPENDIX VII.

*Statement of land irrigated by in mouza . Pargana Zilla during Fasl* 18 .

| Date of giving *purcha.* | NUMBER OF FIELD. | | AREA AND NATURE OF IRRIGATION. | | Name of crop. | Demand | REMARKS |
|---|---|---|---|---|---|---|---|
| | Khataoni. | Settlement. | Flow. | Lift. | | | |
| | | | | | | | Enter particulars of cultivator's parentage, caste &c, where confusion is likely to arise from men having the same names, or explanatory details regarding irrigation. |

(*Punjab Government Notification No.* 3725 *I*, *dated* 17*th August* 1878—*Punjab Gazette of* 29*th idem*).

The above rules have been re-published and declared applicable to the Sirhind Cana and its branches. (*Punjab Government Notification No.* 2359 *I dated* 13*th April* 1883, *Punja Gazette of* 26*th idem*) :—to the Swat River Canal (*No.* 400 *I*, *dated* 1*st February* 1887, *Punja Gazette of* 3*rd March* 1887, *Part I*, *page* 86), and also to the Chenab Canal (*No.* 5796 *dated* 22*nd December* 1887, *Punjab Gazette of* 29*th idem*, *Part I*, *page* 656).

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(i).—In exercise of the powers conferred by Section 75 of the Northern India Canal and Drainage Act (Act VIII. of 1873), the Hon'ble the Lieutenant-Governor of the Punjab is pleased, with the sanction of the Governor-General in Council, to make the following rules, and to declare them applicable to the portion of the Agra Canal situated in the Delhi and Gurgaon Districts of the Punjab :—

Punjab Government, Public Works Department, Irrigation Branch Notifications

No. 560 I., of 5th February 1875,

No. 4059 I., } of 17th September 1875,
No. 4060 I., }

No. 1782 I., of 18th April 1877,

are hereby cancelled.

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## RULES ISSUED UNDER ACT VIII OF 1873.

### PART III.—ON CONSTRUCTION AND MAINTENANCE OF WORKS.

*Grounds of refusal to grant water.*

Section 16.

1. *For apprehended wastage.*—Applications under Section 16 of the said Act shall not be granted to lands where, in the opinion of the Divisional Canal Officer, serious loss from wastage is likely to occur—

(a)—Such application shall not ordinarily be granted in respect of land where, in the opinion of the Divisional Canal Officer, reasonable grounds exist for believing that canal irrigation will raise spring-level to a height likely to prove injurious to health or agriculture.

(b)—Such applications shall not ordinarily be granted in respect of lands where the available supply of water in the canal distributary or water-course is already fully utilised.

2. *Limit of length of water-courses.*—Such application shall not ordinarily be granted in respect of lands where the length of the water-course from its head to its point of contact with such lands does or would exceed one mile.

*Construction of water-courses.*

Section 18.

3. *Orders for construction of masonry works.*—The order which a Divisional Canal Officer may issue under Section 18 of the said Act shall be in writing, and shall be served on each person concerned.

Section 20.

4. *Proceedings of Superintending Canal Officer.*—The Superintending Canal Officer, before confirming or modifying a decision of the Divisional Canal Officer, under Section 20 of the said Act, shall fix a day for hearing inform the parties concerned, and hear and record any objections made by any of them who appear on such day.

Sections 20 and 21.

5. All applications for water to be supplied for irrigation through an existing channel, or through a channel to be constructed by the applicant, shall be made as nearly as may be in the form prescribed in Appendix I.

Section 24.

6. *Proceedings of Deputy Commissioner.*—The Deputy Commissioner shall give not less than fourteen days' notice to the Divisional Canal Officer under Section 24 of the said Act.

Section 29.

7. *Opening of new water-courses.*—Water shall not be admitted into any new water-course until all works have been constructed which are necessary for the passage across such water-course or water-courses existing previous to its construction, and of the drainage intercepted by it, and for affording proper communication across it for the convenience of the neighbouring lands and of the public.

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### PART IV.-ON THE SUPPLY OF WATER.

*Supply of water for other purposes than irrigation.*

Section 31.

8. *Filling of tanks for watering cattle.*—Tanks may be filled with canal water without charge and without reference to the area irrigated in any village, whenever water can be made available without injury to the cultivation dependent on any canal, subject to the following regulations :—

I.—No tank shall be so filled unless exclusively used for domestic purposes or for watering cattle.

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II.—No tank shall be so filled which, intercepting any line of drainage, is liable to overflow from accumulation of water from natural causes.

III.—No tank shall be so filled except on the written order of the Sub-divisional Canal Officer, issued on the written applications of the parties concerned at such times and to such extent as the Sub-divisional Canal Officer approves.

IV.—No tank shall be so filled unless the water-course used to fill it shall be shown to the satisfaction of the Sub-divisional Officer to be in a sound condition when the application is made.

V.—In the event of any breach of the foregoing regulations by any person for whose benefit the tank has been so filled, or of any such person using any tank so filled otherwise than for domestic purposes or for watering cattle, the privilege, by this rule afforded, may, in addition to any penalty which may be incurred under the Act, be suspended for 12 months, by order of the Divisional Officer passed on a regular proceeding and inquiry in each case.

VI.—Any person irrigating without authority from tanks, jhils, or other receptacles filled with canal water, is using the water in an unauthorized manner, and will be dealt with according to the provisions of Section 33 and clause IV. of Section 70 of the Act.

9. *Contracts for water for other than irrigation purposes.*—The Superintending Canal Officer is empowered to sanction contracts made by the Divisional Canal Officer for the supply of canal water for purposes other than those hereinbefore mentioned for any term not exceeding one year. For terms exceeding one year the sanction of the Local Government shall be necessary.

10. *Charges for water used for other than irrigation purposes.*—Tanks may be filled (or water may be supplied direct in small quantities) for purposes other than those stated in clause 1 of rule 8 with canal water, which will be charged for at such rates and subject to such conditions as the Local Government may from time to time by rule determine. For rates in force, see Appendix II.

11. *Water supplied to cantonments, towns, &c.*,—When water is supplied to forts or other military buildings, cantonments, civil stations, cities, railways, public gardens, or other places of public resort, either by filling of tanks or by direct flow, contracts at special rates may be made by the Superintending Canal Officer with the sanction of the Local Government.

12. *Water-power.*—The use of water-power may be granted by the Divisional Canal Officer at such rates and under such conditions as the Local Government may from time to time by rule determine.

*Distribution and stoppage of supply.*

13. *Preparation of fields.*—A Divisional Canal Officer may withhold or postpone the issue of water to any cultivator whose fields may have been ascertained by personal inspection (of himself or of one of his assistants, or of the Canal Deputy Magistrate) to be unprepared for irrigation by division into *kiyaris* or compartments, not greater in area than eight hundred square feet, and by the addition of small water-channels, such as are used in irrigation from wells—

Section 32.

(*a*) When a field is irrigated, which has not been so prepared, an additional charge may be imposed, equal to half the amount of water-rate leviable on the field. This additional charge will be separately recorded in the "Khatiauni" and will be collected with the water-rate.

(*b*) Rice fields and gardens are exempted from the operation of this rule.

(*c*) In each case the Divisional or Sub-divisional Canal Officer, or Canal Deputy Magistrate, must certify that he personally examined the field, and that it was not properly prepared for irrigation according to the terms of this rule.

14. *Tatils.*—Divisional Canal Officers are empowered, for purposes of administration, repairs and maintenance, to order the closure of any water-course, for periods which shall not extend beyond twelve consecutive days. For longer closures the authority of the Superintending Canal Officer is required.

Section 32 (*a*).

Orders for closures under this rule must be notified—

(*a*) By a notification under the hand of the Divisional Canal Officer, a copy of which shall be conveyed by the Canal establishment, with due expedition, to each village concerned, and delivered to the patwari, or, in his absence, to any lambardar. The acknowledgment of each person to whom a copy of the notification is delivered shall be affixed to a schedule prepared for the purpose, which shall be recorded in the Divisional Canal Office; or

(*b*) In the form of special orders issued upon particular occasions.

Orders of the latter description shall be in writing, under the hand of the Divisional Canal Officer.

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It shall be the duty of the patwari or lambardar who receives the notification above described to affix it at once in a conspicuous position in the village, and to make its purport generally known.

15. *Stoppage of supply in improperly maintained water-courses.*—Stoppage of supply of water to any water-course under clause (*a*) (2), Section 32 of the said Act, may be enforced when the Canal Officer recommending such stoppage has satisfied himself, by personal inspection, that the water-course is not maintained in proper repair, as contemplated in the said clause (*a*) (2). The order for such stoppage shall be in writing, under the hand of the Divisional Canal Officer. Immediate report shall be made to the Superintending Canal Officer and to the Deputy Commissioner when the duration of such stoppage is likely to extend to a period of ten days or more, the special grounds for stoppage being explained in each case. The Superintending Canal Officer's order thereon shall be final.

15A. *Stoppage of supply not to be resorted to as a punitive measure.*—Under no circumstances should stoppage of water-supply be resorted to as a *punitive* measure. Such a measure is virtually prohibited by law, inasmuch as it is not included in any of the cases in which stoppage is directly authorised; but attention cannot be too prominently drawn to its illegality. The general power of directing stoppage of water-supply is reserved, under the Act, to Divisional Canal Officers; but it rests with the Sub-divisional Officer to authorise temporary stoppage in cases of "pressing emergency." When a Sub-divisional Officer has occasion to act upon this authority, he shall at once report the fact to his departmental superior, giving his reasons in full for the action thus taken

16. *Power of Canal Officer in cases of emergency.*—Nothing in the feregoing rules shall be taken to affect the power of the Canal Officer to close any water-course or stop any supply of water on his own authority in cases of pressing emergency.

Section 32 (*b*).

17. *Claims for remission.*—Claims under clause (*b*), Section 32 of the said Act, to remission of the occupier's rate, shall be admitted only on proof of actual loss caused by the stoppage of supply; on proof of such loss the whole or any portion of the charges may be remitted as hereinafter provided.

All claims to such remission shall be made to the Divisional Canal Officer previous to the cutting of the crop. The Divisional Canal Officer may reject or admit any claim. If the claim be admitted, the Divisional Canal Officer may remit, or, where collection has been already made, direct refund to the extent of Rs. 50 on each of the *parchas* mentioned in rule 65: provided that the aggregate remissions for any one village do not exceed Rs. 200. If the Divisional Canal Officer considers that higher remissions should be granted than those above specified, report shall be made, through the Superintending Canal Officer, for the decision of Government. Pending the decision, collection shall be suspended.

Section 32 (*c*).

18. *Compensation.*—Before awarding compensation under clause (*c*) Section 32 of the said Act, the Deputy Commissioner shall obtain the written opinion of the Divisional Canal Officer.

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## PART V.—OF WATER-RATES.

### *Occupier's Rate.*

Section 36.

19. *Assessment of occupier's rate.*—Occupier's rate shall be assessed by the Divisional Canal Officer on the area irrigated at the rates prescribed in the rules made by the Local Government under Section 36 of the said Act, and subject to the following rules. (For rates in force see Appendix III).

20. *Charges leviable for partial irrigation and for the irrigation of mixed crops.*—When a field receives the first, or *pairo*, watering, and afterwards no crop is sown, the lowest rate of charge for "lift" or "flow" as the case may be, shall be imposed. One watering after the crop has been sown shall be charged for at the rate leviable for the whole crop. If mixed crops be grown in the same field the occupier's rate shall be calculated on the highest rated crop. If different crops be grown in different parts of the same field, the occupier's rate for the whole shall be calculated on the highest rated crop, unless the division between the crops shall have been clearly defined by a ridge not less than half a foot high.

21. *Charge leviable on fields re-sown.*—When the original crop sown in a canal irrigated field fails and is ploughed up, and a fresh crop sown in the same season, the occupier's rate to be levied shall be that due on the crop which comes to maturity.

22. *Occupier's rate for fields partly irrigated.*—If only a portion of a field be irrigated, the occupier's rate shall be chargeable on the whole field, unless such portion shall have been clearly demarcated by a ridge not less than half a foot high.

23. *Charge leviable on fields partly irrigated from canals, partly from wells, or other sources.*—When a portion of a field has been irrigated with canal water, and a portion with water from a well or any other source, the whole field is liable for canal occupier's rate, unless a clearly distinguishable boundary, demarcated by a ridge not less than half a foot high, exists between the two portions. Inquiry shall be made whether the use of water from a well

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or any other source was in consequence of a deficiency in the supply of canal water, and if it be proved that it was so, the rate charged for canal water shall not exceed "lift" rates.

24. *Use of canal water-courses for conveyance of water from a well or any other source.*—If water from a well or any other source is conveyed in the same channel as canal water in the course of the same season, the whole of the irrigation from that channel during such season is liable to be treated as irrigation from the canal.

25. *Charge leviable for permanent irrigation from escapes.*—Irrigation from escape channels, when the supply is permanent, shall be governed by the same rules as irrigation from other parts of the canal.

26. *Charge leviable for intermittent irrigation from escapes.*—Irrigation from such channels, when the supply is intermittent, may be allowed at such reduced rates as shall from time to time be fixed by the Local Government.

27. *Charge leviable for waste.*—The charge leviable for water used in an unauthorised manner, or suffered to run to waste, may, when the land flooded is uncultivated, be calculated on the area flooded at the highest rate prescribed in the rules made by the Local Government under Section 36 of the said Act: and when the land is cultivated, at double the rates so prescribed for the class of crops grown on it: provided that in every such case the Divisional Canal Officer may impose a lower charge if he think fit.

28. *Schedules of rates to be accessible to villagers.*—The patwari of every village irrigated by canals shall be furnished by the Divisional Canal Officer with a statement in Hindi, or the current written language of the district, showing the rates of assessment of each class of produce according to the ordinary local and canal standards of measurements, which statement shall be suspended in the *chaupal* or other place of public resort in the village.

## PART VI.

### *Navigation.*

Sections 49 to 54.

29. *Tolls.*—When a canal shall have been declared by the Local Government open for navigation, tolls and charges on boats and rafts plying thereon shall be levied under such regulations as to variation of beam or burden, and at such rates as shall be from time to time determined by the Local Government with the approval of the Government of India; and such regulations and rates shall be notified in the *Government Gazette.* (For rates in force see Appendix IV).

30.—*Ferries.*—Ferry boats shall not be permitted to ply on a canal except under a written license, in the form contained in Appendix V. from the Divisional Canal Officer, and subject to conditions therein laid down.

31. *Measurement.*—Every boat or raft entering a canal shall be liable to measurement, for the purpose of ascertaining the amount of toll such boat or raft shall pay, according to the rates determined as prescribed in rule 29.

32. *Number.*—The traffic manager or person duly authorised in his behalf shall assign to every boat, at the time of first measurement, a serial No. by which it shall be distinguished while plying on the canal. The No. shall be marked on the port or lefthand bow of the boat, and shall not be less than eight inches in height, and shall be of such a colour as to be easily distinguishable at a distance of one hundred yards.

33. *Ticket.*—Every boat on entering a canal shall be furnished by the traffic manager, or person duly authorised in his behalf, with a ticket in the form contained in Appendix VI., which shall specify the number of the boat, the date on which it entered the canal, the name, occupation, and place of abode of its owner, and the name of the person in charge of the boat for the time being. The traffic manager or person duly authorised in his behalf shall, before the boat leaves the canal, return the ticket to the person for the time being in charge, after entering thereon the date of leaving.

34. *Dimensions.*—No boat above fourteen feet beam over all shall be allowed in a canal on which the locks are sixteen feet in width, and no boat above eighteen feet beam over all in a canal on which the locks are twenty feet in width. No raft of more than fourteen feet in width and ninety feet in length shall be allowed on any canal the locks of which are sixteen feet in width; and no raft of more than eighteen feet in width and one hundred feet in length shall be allowed in a canal the locks of which are twenty feet in width.

35. *Tolls payable in advance.*—Tolls on boats shall be paid in advance and no boat shall be allowed to leave any canal on which it is plying until all such tolls have been paid. The traffic manager or person duly authorised in his behalf, on granting permission for the removal of the boat, shall sign the certificate at the foot of the ticket given under rule 33, after satisfying himself that all claims against the boat have been paid.

36. *Special rule for the Agra Canal.*—Canal dues shall be paid on or before the last day of each quarter, except in the case of a boat leaving the canal, for which, before it leaves, payment shall be made for the number of days due, as shown by the ticket granted under rule 33.

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37. *Receipt for tolls.*—Tolls shall be paid to the traffic manager, or person duly authorised in his behalf, at any of the toll stations, and a receipt in the form contained in Appendix VII. shall be granted for the same.

38. *Pass for boats.*—Upon any boat plying on a canal, being loaded wholly or in part, the owner or other person in charge shall declare to the traffic manager. or person duly authorised in his behalf, at the place of loading (or, in the absence of the traffic manager, or such authorised person, at the place of loading, at the first station he may pass), an invoice of the cargo there taken in, showing its nature, weight, value and destination. The traffic manager, or person duly authorised in his behalf, shall thereupon furnish the owner or person in charge with a pass in the form contained in Appendix VIII., specifying the foregoing particulars, which pass shall be delivered to the person authorised to receive the same at the station nearest to the place at which the boat is unloaded.

39. *Pass to be shown when required.*—The person in charge of a boat shall show the pass granted under rule 38 whenever he is required to do so by the traffic manager or any person authorised by the Local Government in his behalf.

40. *Every boat or raft to be navigated by two persons.*—No boat or raft shall be navigated by less than two persons.

41. *Pass for rafts.*—Passes in the form shown in Appendix IX. shall be granted to persons wishing to float rafts down a canal upon application to the traffic manager, or person authorised by the Local Government, at the nearest station. No raft unprovided with a pass shall enter a canal.

42. *Removal of rafts from canal.*—On reaching the destination specified in the pass, the person in charge of a raft shall, within twenty-four hours, deliver the said pass to the traffic manager, or person authorised by the Local Government in his behalf, who, if all charges due under these rules have been paid, shall authorise the removal of the raft, which shall be effected within forty-eight hours from the time of permission being granted, unless written authority to defer removal be given by the traffic manager or such authorised person.

43. *Divisional Canal Officer empowered to remove rafts.*—Rafts not removed within the time required by rule 42, and rafts found unattended, may be taken out of the water by the Divisional Canal Officer or any person duly authorised in his behalf.

44. *Rafts without passes.*—Any raft found in a canal unprotected by a pass may be charged with double toll, reckoned on the distance from the head of the canal to the place where such raft shall be removed from the canal.

45. *Double rates to be charged for excess over quantity shown in pass.*—Double rates shall be leviable on all articles in excess of the quantity of each kind specified in the pass granted under rule 41.

46. *Removal of rafts lodging against canal works.*—Every person floating a raft in a canal shall so navigate it that it shall not lodge against any canal works; and if any raft so lodges or causes obstruction, it shall at once be broken up and removed by any Canal Officer on the spot.

47. *Rafts liable to detention.*—All rafts, subject to demands under Sections 51 and 52 of the said Act, shall be liable to detention until such demands are paid. If payment be not made within fourteen days of such detention, the Divisional Canal Officer may proceed to put in force the provisions of Part VI of the said Act for the recovery of such demand.

48. *Masts.*—Boats shall have their masts fitted so that they can be let down with ease and speed; and no mast shall be so fitted as, when so let down, to strike or scrape any bridge under which the boat may pass.

49. *Boats and rafts to be fastened fore and aft.*—Every boat or raft which is brought alongside of a canal bank or wharf must be securely fastened fore and aft to such bank or wharf: no boat or raft shall be brought up outside another so moored without the permission of the Divisional Canal Officer or some person authorised by him in this behalf.

50. *Boats and rafts to be moored so as not to obstruct traffic.*—No boat or raft shall be placed in such a position as to endanger the safety of other boats or rafts or to obstruct their passage, or to impede navigation; and no bamboos or poles shall be erected on vessels moored to the bank.

51. *Every boat or raft when brought to to have some one on board.*—Whenever a boat or raft is brought to, some person shall remain in attendance on board.

52. *Wrecks.*—When any boat or raft is wholly or partially sunken or disabled in any canal, the owner or other person in charge of such boat or raft shall remove the same without delay. Should the owner or the person in charge not be forthcoming, or should he refuse to remove the boat or raft, or should he not use reasonable expedition in removing the boat or raft, then the Divisional Canal Officer or other person duly authorised in this behalf may undertake the removal under Section 49 of the Act.

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53. *Banks or berms not to be used as wharves.*—The banks or berms of the canal shall not be used as wharves for the deposit of goods, except with the permission of the Divisional Canal Officer or some person authorised in this behalf; any person violating this rule shall be liable to a penalty.

54. *Goods to be removed from canal lands.*—All goods shall be removed from canal lands within seven days, unless the written permission of the Divisional or Sub-divisional Canal Officer be obtained to their remaining longer. All goods deposited on canal lands must be properly stacked, and so placed as not to interfere with other traffic. In the event of such goods not being removed when required, a daily charge of four annas per hundred maunds shall be levied as a demurrage, when the goods are susceptible of being reckoned by weight; and a reasonable charge shall be determined by such Canal Officer when the goods are reckoned by number. This rule does not apply to canal ware-houses, for which special rules will be framed by the Local Government.

55. *Boats or rafts liable to be examined.*—Any boat or raft plying on a canal may be examined by any Canal Officer of rank not inferior to a Sub-divisional Officer, or by the traffic manager or other person duly authorised in this behalf, provided that there is reason to believe that the owner or person in charge thereof is attempting to violate any rules under this part.

56. *Canal closures.*—No claim for compensation to any owner or person in charge of any boat or raft navigating the canal shall be created by unavoidable detention resulting from the closure of the canal, or from the depth of water being at any time unavoidably reduced, or from the failure of any weir, lock, bridge, or other work in the canal-bed.

57. *Vessels, &c., abandoned.*—If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or ware-houses occupied for the purpose of a canal, be left unclaimed for a period of two months, the traffic manager shall request the Divisional Canal Officer to take possession of the same and shall furnish a schedule (Appendix X.) giving particulars of the vessel, cargo or goods. The officer so taking possession shall publish a notice, Appendix XI., in the *Government Gazette* and if the vessel and it contents, or cargo or goods referred to in the notice, are not claimed within 30 days from the date of the notice, shall direct the property to be sold. On receipt of the proceeds of sale, the Divisional Canal Officer shall credit the amount of charges due to the traffic manager, if the net amount realized exceeds the amount of charges; and shall pay the balance to the owner of the boat, or its contents, or of the cargo, or goods, so soon as the ownership is established to the satisfaction of the Canal Officer; or to the district treasury if no ownership is established to the Divisional Canal Officer's satisfaction, within the period of one month from the date of sale. If the net proceeds of the sale are less than the amount of charges due, the whole net proceeds shall be credited to the traffic manager.

## PART X.—OF OFFENCES AND PENALTIES.

58. *Offences.*—Offences under Section 70 of the Act shall be cognizable by a Magistrate of the first or second class.

Section 70.

59. *Canal Officers exercising judicial powers.*—The following instructions are laid down fo the guidance of Canal Officers exercising judicial powers :—

I.—No Canal Officer will, under any circumstances, be invested with Magisterial powers until he has passed the departmental examination in canal law.

II.—The practice and procedure of Canal Officers exercising judicial powers are governed in all respects by the provisions of the Code of Criminal Procedure, and every offence must be tried in the district in which it was committed.

III.—No punishment can be inflicted by Canal Magistrates for offences not cognizable under the Act, such as attempting to defraud Government in pecuniary matters, making false reports, &c.

IV.—Warrants issued by Canal Magistrates must be directed to the police only.

V.—In the exercise of their judicial functions, Canal Officers are entirely subordinate to the Magistrate of the district within whose jurisdiction any alleged offence was committed. To the Magistrate of the district—and to him alone—all appeals from such decisions lie.

VI.—Canal Officers, exercising judicial powers, will forward monthly an abstract of all cases decided (in the form giving in Appendix XII.) to the Magistrate of the district concerned. The attention of Magistrates is invited to the revisional powers vested in them under the law, in virtue of which they may call for and examine the record of any cases decided by Subordinate Magistrates; and the Lieutenant-Governor desires that this revisional jurisdiction be constantly kept in view, and acted upon at discretion. The Judicial work performed by Canal Officers should be detailed—and commented on when necessary—in the annual District Report.

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60. *Damage to canal under Section 70 defined*—The following interpretation of the clauses of Section 70 is laid down for the guidance of Canal Officers :—

Section 70.

*Clause I (a).—Whoever damages any canal or drainage work.*

The following are held to be offences under this clause:—

1. *Damage to canal*, which includes.—

Cutting banks of canal ;
Ditto rajbaha ;
Ditto water-course ;
Ditto escape ;
Ditto navigation channel ;
Ditto mill channel ;
Ditto drainage cut—

or obliteration of lockspit.

2. *Damage to land*, which includes excavating earth or digging grass or plants from canal lands ; planting trees or sowing c ops without permission on canal lands.

3. *Damage to buildings*, which includes masonry works of all kinds, and all the several parts of them, whether on canal, rajbaha, water-course, escape, navigation channel, or mill channel, or drainage work.

4. *Damage to machinery*, which includes all regulating apparatus, such as windlasses chains, gates, sleepers and planks ;

All bridge-lifting apparatus ;

All lock apparatus ;

All mill machinery.

5. *Damage to fences*, which include fences of all kinds situate on canal lands.

6. *Damage to gates.*

7. *Damage to other erections*, as temporary falls, bridges, &c., temporary head bunds and spurs ;

Stakes, spurs and cribwork for protection of banks and bed, &c;

Milestones which are not also bench-marks ; or any distance marks on canal lands.

8. *Damage to plants*, which include plantations, trees, crops, grass, seeds or other produce.

*Clause I (b).—Whoever alters or enlarges any canal or drainage work,* includes altering or enlarging the channel of any rajbaha, water-course, escape, or drainage cut.

*(c).—Whoever obstructs any canal or drainage work*, includes.—

(1) placing bunds and obstructions of any description in any canal, channel, or drainage course maintained or controlled by Government for the supply or passage of water ;

(2) or in any part of any river, stream, lake, or natural collection of water, or natural drainage channel which has been notified by Government under Section 5 of this Act ;

(3) or any water-course, without the consent of the person or persons using the water-course, or (in respect of orders passed under Section 68) of the Subdivisional Officer.

*Clause II (a).—Whoever interferes with the supply of water in any canal or drainage work* includes—

Putting planks or sleepers in a fall, or taking them out, without permission ;
Opening or closing sluice-gates without permission or at unauthorised times ;
Interfering in any manner with the regulation of drainage inlets ;
Interfering with the regulation of torrents crossing the canal, whether on or above or below its level.

*(b).—Whoever increases or diminishes the supply*, &c., includes.—

Increasing or diminishing the supply of water in regulating head works, whether of canal, branch canal, escape, rajbaha, or mill stream ;

Opening water-course heads (colabas) during closed time or "tatil;"

A.—Closing a colaba used by another person.

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*Clause III.—Whoever interferes with or alters the flow of water in any river or stream,* includes—

Damage to torrent training works of all descriptions, such as—

Removing piles and trees from spurs, or nails or timber from crib-boxes, &c.,

*Clause IV.—Whoever, being responsible for the maintenance of a water-course, or using it neglects precautions for preventing the waste of water, or interferes with the authorised distribution of the water, or uses the water in an unauthorised manner,* includes—

Wasting water ;

Interfering with the established distribution of the water amongst the several shareholders of the water-course.

[*N. B.*—in such a case the Canal Official cannot prosecute.]

Filling tanks without permission.

*Clause V.—Whoever corrupts or fouls the water of any canal so as to render it less fit for its ordinary use.*

Throwing dead bodies or hemp or rubbish of any kind into, and steeping hemp in, any canal channel.

*Clauses VII, VIII and IX.*—Offences under these clauses appear to require no further definition.

*Clause X.—Whoever destroys or removes any level mark or water-gauge fixed by the authority of a public servant,* includes—

Damaging bench-marks ;

Removing levelling pegs ;

Damaging or moving gauges.

The foregoing classification and definition of offences that can be brought, under Section 70 of Act VIII of 1873 is not exclusive ; but other offences, and even other classes of offences will probably develop themselves from time to time.

## PART XI.—SUBSIDIARY RULES.

*Regarding the collection of occupier's rate.*

61. *Notice of measurements to be sent to Tashildars.*—Canal zilahdars shall give seven days' notice in writing to tahsildars of date of commencement of measurements in every village, by furnishing, at the end of each week, a statement of the villages which it is intended to measure in the week after the next.

62. *Tahsildars responsible for attendance of patwaris.*—Tahsildars, on receipt of notice, will be responsible for the attendance of patwaris during the time of measurement of each village.

63. *Preparation of khatiauni.*—On the completion of measurements of a village, the amin, before leaving it, shall prepare from the khasra a khatiauni, in which all the entries concerning each cultivator will be brought together and totalled. A copy of the khatiauni will be forthwith prepared by the patwari (in forms to be furnished by the Canal Officer) in the current written language, and signed by the amin.

64. *Khatiauni to be accessible to cultivators.*—The patwari shall be responsible for the village copy of the khatiauni being at all times accessible to any person who pays water rate.

65. *Distribution of parchas.*—As soon as the khatiauni is completed, the amin shall tender to each cultivator a *parcha* or slip containing the particulars of rate due from him, with the date on which it was given noted on it. All *parchas* remaining unclaimed shall be left with the patwari of the village, or, in his absence, with the lambardar, for delivery to the cultivators concerned. The *parchas* shall be in the form detailed in Appendix XIII.

66. *Realization of occupier's rate.*—The Deputy Commissioner shall realize the rate assessed by the Divisional Canal Officer.

Section 45.

67. *Complaints against khasra entries.*—If a cultivator desires to contest the correctness of the entries made against him in the khatiauni whether as to the fact of the land having been irrigated, or of its being charged to "flow" or "lift," or as to the measurement and entries of class or crop, he must lodge a complaint with one of the following officers :—

Divisional Canal Officer,

Sub-divisonal ditto,

Canal Deputy Magistrate,

Canal zilahdar.

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within twenty-one days of the date of receiving the *parcha*, or (if he should not have received a *parcha*) within *twenty-one* days of the date on which he first became acquainted with the claim against him; and the complaint shall be investigated on the spot within fifteen days of its being lodged, and shall be promptly decided by one of the first three officers mentioned above.

On a complaint being presented to a zilahdar, he will immediately make local inquiry and will report the circumstances of the case to the Sub-divisional Officer for orders.

In respect of cases disposed of by the Sub-divisional Canal Officer or Canal Deputy Magistrate, an appeal shall lie within fifteen days to the Divisional Canal Officer, whose decision shall be final.

As great latitude as possible should be allowed in the interpretation of the rules limiting the time within which a complaint or appeal can be lodged. Where the complaint has been made so late as to preclude the possibility of a satisfactory investigation being made, the complainant must of course suffer for his own negligence; but all reasonable efforts should be made to get at the truth of a complaint before rejecting it.

68. *Disputed liability to assessment to occupier's rate.*—When the liability of assessment to occupier's rate is contested on the ground that the water for which the charge has been made was not derived from a canal, as defined in clause (1), Section 3, of the said Act, the complaint shall be investigated by the Divisional Canal Officer, who may decide in favour of the complainant; or if he do not consider such complaint valid, shall forward to the Deputy Commissioner a copy of the order he proposes to pass thereon.

If the Deputy Commissioner concurs in the first order, such order shall be final. If the Deputy Commissioner does not concur in the proposed order, an appeal shall lie to the Commissioner within sixty days from the date on which the Deputy Commissioner communicated to the Divisional Canal Officer his dissent from such order.

69. *Objections on behalf of cultivators.*—When a lambardar or other person is responsible, under Section 46 and 47 of the said Act, for the payment of the occupier's rates in a village, or any portion of a village, complaints under rules 67 and 68 may be lodged by such lambardar or other person instead of by the cultivators, and any refund that may be necessary in consequence of the order passed upon objection so lodged shall be paid to such lambardar or other person.

70. *Receipts.*—Receipts shall, when demanded, be given by the lambardar to each cultivator on payment of occupier's rate, and shall be countersigned by the patwari.

71. *Method of dealing with alterations in the demand.*—If, after the giving of the *parcha* any additions are made to the demand, or any reductions are allowed on complaint, under rule 67 or 68, or by way of remission, under Clause (*b*) Section 32, of the said Act, or otherwise, such additions or reductions shall be communicated to the cultivator by means of supplementary *parchas*. Demands shall be shown on slips printed in black, and remissions on red forms. All such alterations as are made before the despatch of the khatiauni to the Deputy Commissioner shall be shown in that document, and shall also be written on slips similarly printed (black for additions, and red for reductions), and attached to the khatiauni. Alterations made after the despatch of the khatiauni shall be communicated to the Deputy Commissioner by means of similar slips.

72. *Objections to the demand.*—Objections to the demand urged before the Deputy Commissioner shall be referred by him to the Divisional Canal Officer, the collection, except in the case provided for in rule 63, not being suspended unless the Divisional Canal Officer shall notify that an objection has been admitted.

73. *Remissions adjustable in Revenue Department.*—Balances irrecoverable owing to want of assets, absconding of defaulters, or any other such cause unconnected with canal management, and claims to refund on the ground of excess collection, shall be dealt with by the Deputy Commissioner, whose order thereon shall be final.

74. *Payment of refund.*—Payment of refunds, whether ordered by the Deputy Commissioner under rule 73, or directed by the Divisional Canal Officer or Government under rule 17, shall be made by the Deputy Commissioner, who will carefully note such payments as they are made in abstract B at foot of Canal Revenue Form No. VI., quoting proper authority in each case.

75. *Patwaris' fees.*—Patwaris will be paid at the rate of Re. 1-4 for every 100 acres of land irrigated; this payment to be conditional on their affording satisfaction to the Divisional Canal Officer in respect to their duties in connection with the measurements and assessment, and to the Deputy Commissioner in respect to their duties connected with the collection of canal revenue.

76. *Lambardars' fees.*—The collection of the occupier's and owner's rates should be made with the utmost promptitude. The allowance to lambardars or other persons under engagement for the collection of the rates is Rs. 3-2 per cent, or 6 pies per rupee. It is payable on discharge in full of the amount of revenue due upon the khatiaunis entrusted to them within ten weeks of the receipt of the documents, or within ten days after the date on

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which the land-revenue instalment falls due next following the date of receipt of the jamabandis, as lambardars may prefer. Deputy Commissioners should invariably note at the foot of part B of Canal Revenue Form VI, if any portion of the sums shown as payment to lambardars has been passed for revenue paid in after the prescribed date.

77. *Dates of submission of jamabandis.*—For the kharif the jamabandis are to be submitted by Divisional Canal Officers not later than the 15th of October, and for rabi not later than the 15th of April.

## APPEALS.

78. An appeal shall lie to the Divisional Canal Officer from any executive order passed by a Sub-divisional Canal Officer or Canal Magistrate.

79. An appeal shall lie to the Superintending Canal Officer from any order passed by the Divisional Canal Officer under rules 1, 2, 7 and 14, clause (*b*).

80. No appeal under rule 78 shall be brought after the expiration of fifteen days from the date of the order complained of.

No appeal under rule 79 shall be brought after the expiration of thirty days from the date of the order complained of.

81. In computing the period prescribed for an appeal under these rules, the day on which the order complained of was pronounced, and the time requisite for obtaining a copy of such order, shall be excluded.

82. Any appeal under these rules may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order under this rule admitting an appeal.

83. The Financial Commissioner may at any time call for any case which has come before a Commissioner or Deputy Commissioner; and the Local Government may at any time call for any case which has come before a Superintending or Divisional Canal Officer, and pass such orders thereon, consistent with the Act and the rules made thereunder, as may seem proper.

84. Orders passed by the Financial Commissioner shall be subject to review by the Local Government in the Revenue Department.

## MISCELLANEOUS.

85. *Prohibition against passing on or across canal works.*—No person, without the permission, in writing, of the Sub-divisional Officer, shall pass, or shall cause any animal or vehicle to pass on, or across any of the works, banks, or channels of a canal, or drainage work, after he has been desired to desist therefrom, excepting upon such bridges, fords, and ferries and their approaches, as are provided by the Divisional Canal Officer.

86. *General prohibition.*—No person employed on a canal shall, without previous sanction obtained from the Divisional Canal Officer, have any interest in the use or distribution of water from the said canal, or purchase, or bid, either in his own name or in the name of another or separately or in partnership with others, for any property sold by or on behalf of Government thereon.

87. No portion of—

(*a*) any additional charge imposed under rule 13 (*a*);

(*b*) any charge imposed on uncultivated land or of the amount by which the charges on cultivated land exceed the ordinary charge leviable on such land in the case of charges under rule 27,

shall be included in the occupier's rate for the purpose of assessing the owner's rate.

## APPENDIX I.

*Application for water-course from canal, village pargana district*

FOR CROP OF 18

1. Name of applicant.
2. Name of supply channel.
3. Proposed site of new outlet.

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4. Approximate area of land to be irrigated.
5. Number of pipes required.
6. Irrigation by over-flow or lift.
7. Approximate length of water-course.
8. Names of owners of lands to be traversed by water course.
9. Land irrigable from any existing outlet or not.
10. Number and names of intending shareholders (if any) in the outlet applied for.
11. Number of outlets now in supply channel ... { Right bank. Left bank.
12. Width of bank, including slope and pathway.
13. Number of outlets now allotted to village.
14. Culturable area ... ... ... ... { Whole village. Applicant's lands.
15. Area already provided with irrigation ... { Whole village. In applicant's holding.

*N. B.*—Columns 11 to 15 to be filled in, in Canal Office.

## APPENDIX II.

Section 31 of the Act. The following water-rates will be levied in respect of canal water which has been passed into tanks by permission :—

(1) When the water, or part of it, is employed in irrigation, the water-rate levied will be the price of the whole of the canal water passed into the tank during the fasl or season, at the rate of one rupee per 15,000 cubic feet per fasl.

(2) When water is used for any of the following purposes the water-rate will be levied by measurement of the produce, *viz* :—

(*a*)—On bricks moulded, at the rate of Rs. 5 per lakh of 9-inch bricks moulded ; and for other sizes in proportion.

(*b*)—On kutcha masonry, at the rate of one rupee per 5,000 cubic feet of building.

(*c*)—On roads and banks, or road metal consolidated with such water, at the rate of one rupee per 4,000 cubic feet of construction.

## APPENDIX III

THE water-rates as detailed below are in force on the Agra Canal.

*I.—Occupier's Rate.*

Section 36 of the Act.

| Class. | Nature of crops. | Per acre irrigated. Natural Flow. | Per acre irrigated. Lift. | Per |
|---|---|---|---|---|
| | | Rs. a. p. | Rs a. p. | |
| I | Sugar cane, rice ... ... ... ... | 6 10 8 | 3 5 4 | Year. |
| II | Tobacco, opium, vegetables, orchards, and water-nuts | 4 0 0 | 2 0 0 | Crop. |
| III | All rabi crops, indigo and cotton ... ... ... | 3 0 0 | 1 8 6 | Do. |
| IV | All kharif crops not specified above ... ... ... | 2 0 0 | 1 0 0 | Do. |

*II.—Owner's Rate.*

Owner's Rate * is leviable at one-third the Occupier's Rate in all lands assessed as unirrigated at Settlement but now irrigated from the canal.

* Sections 37, 38 and 39 of the Act.

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## APPENDIX IV.

The following rates for boats plying on the Agra Canal will be levied :—

| Class. | Width of beam. | Rates per quarter. Rs. | a. | p. |
|---|---|---|---|---|
| A. | Over 10 feet beam ... ... ... ... ... | 20 | 0 | 0 |
| B. | Over 6 feet and under 10 feet beam ... ... .. | 10 | 0 | 0 |
| C. | Six feet beam and under ... ... ... ... | 8 | 0 | 0 |

And for rafting timber and bamboos as follows :—

| Class. | Description. | Rate. | |
|---|---|---|---|
| 1 | Logs, whether round or squared, exceeding 2½ feet in girth ... | Per mile per-100 cubic feet of raft. | 9 pies. |
| 2 | Logs, less than 2½ feet in girth including karis, ballas, sleepers, &c., &c., ... ... ... ... ... ... ... | Ditto ... | 4 pies. |
| 3 | Bamboos ... ... ... ... ... ... ... | Ditto ... | 2 pies. |

Firewood will not be allowed to enter the canal in rafts.

## APPENDIX V.

*License for ferry boat or raft,* *canal.*

Position of ferry.

Dimensions of boat or raft.

Name of person to whom license is granted.

Period for which license is granted.

Tolls leviable at ferry.

CONDITIONS.

This license may be rescinded if tolls be levied in excess of those specified above, or if the boat or raft be not maintained in proper working condition, or if delays or obstructions to travellers occur, or for other fault which in the judgment of the Canal Officer, demands it. Appeals against the orders of the Canal Officer shall lie to the Superintending Canal Officer.

STATION AND DATE. } (Sd.) A. B. *Ex. Engr.*
*Divisional* *Canal*

## APPENDIX VI.

No. _____ TRAFFIC DEPARTMENT, CANAL.

PASS TICKET 18

Boat No.

Date of entry.

Owner's name.

Occupation.

Residence or place of business.

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Name of person in charge.
Measurement of boat.
Estimated carrying capacity. Maunds
Tolls paid from 18 to 18 .
Amount Rs. annas pie
By whom issued.
Date of leaving canal.
*Navigation.* *Station.*

I hereby certify that all demands against boat No. for tolls, right of way, damage to canal works, &c , &c , up to date have been satisfied.

*Navigation.*

APPENDIX VII.

No. —·—TRAFFIC DEPARTMENT, CANAL.
Received from 18
Rupees annas pies
Being amount of toll on boat No.
from
to
Rs.
*Navigation Department* *Canal.*
*In charge of* *station.*

APPENDIX VIII.

No.———TRAFFIC DEPARTMENT, CANAL.

PASS FOR BOAT NO.

*Station, dated* 18 .

1. Date of departure.
2. Name and address of owner of boat.
3. Name and address of owner of cargo.
4. Description of cargo.
5. Weight of cargo in maunds (Government).
6. Place of departure on canal.
7. Destination on canal.
8. Ultimate destination.
9. Distance by canal.
10. Rate of freight.
11. Amount of freight.
12. Value of cargo.
13. Number of Passengers.
14. Remarks.

*Signature of Navigation Agent*

APPENDIX X.

No.——— TRAFFIC DEPARTMENT, CANAL.

RAFTING PASS.

From To
Distance miles.
Description of rafts.
Dimensions.
Cubic contents.
Rate of tolls, Rs.
Amount paid, Rs.
Estimated value of rafts, Rs.

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Name of owner.
Residence.
Name of person in charge.
Date of entering canal.

(*Signature.*)
*Canal.*
*Station.*

Rs.
*Received at*
*of* 18

*Navigation.*

APPENDIX X.

*Return of boats or cargo or goods which have been lying unclaimed on the ——— Canal, or on or in lands or warehouses occupied for the purpose of a canal for a period of over two months.*

| Register number. | Description. | Tonnage of boat or weight of cargo or goods. | Now lying at. | Date of abandonment. | Canal dues. |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | |

To the Executive Engineer,
———————

A. B.,
*Traffic Manager,*

APPENDIX XI.

*Notice of sale of derelict boats (or cargo) at*

WHEREAS a vessel has been found abandoned in the —— ——Canal, and has been left unclaimed for a period of two months ; or—

Whereas certain cargo or goods carried in a Government vessel on the———Canal have been left unclaimed for a period of two months at or—

Whereas certain cargo or goods stored on or in lands or ware-houses occupied for the purposes of the——— —Canal have been left unclaimed for a period of two months at

The Divisional Canal Officer has taken possession of the same under Section 54 of Act VIII of 1873.

Notice is hereby given that if such vessel and its contents (or such cargo or goods) are not claimed previously to the (1)— — — —, the same will be sold.

The said vessel and its contents. and the said cargo or goods, if unsold, or, if a sale has taken place, the proceeds of the sale, after paying all tolls, charges, and expenses, incurred by the Divisional Canal Officer on account of the taking possession and sale, will be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer.

If no claim to the property or proceeds is established to the satisfaction of the Divisional Canal Officer before the (2)———, the proceeds will, on or after that date, be paid into the District Treasury there to be held until the right thereto be decided by a Court of competent jurisdiction.

A. B.,
*Executive Engineer,* _____ *Division,*
_____ *Canal.*

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## APPENDIX XII.

*Abstract of cases decided by* _____ *in the* _____ *district during the month of* _____ 188

| Pargana. | Village. | Name of accused. | Offence (quoting Act and rules.) | By whom reported. | Defence (if any). | Witnesses for defence examined. | Name and designation of witnesses for the prosecution. | Finding and sentence. | Duration of trial. | REMARKS. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | |

## APPENDIX XIII.

*Statement of land irrigated during fasl* _____ 12 _____

*To* _____, *son of* _____ *cultivator of mauza* _____ *pargana* _____

*This parcha was delivered on the* _____ 188

| *Number.* | | *Area of land and nature of irrigation.* | | Name of crop. | Amount of demand. |
|---|---|---|---|---|---|
| Khatiauni. | Settlement. | Flow. | Lift. | | |
| | | | | | |

*Notice to the Cultivator.*

The cultivator should observe whether the date in the parcha is correct or not. If he objects to any field he should state his objection to any Canal Officer within 21 days after receiving the parcha, or he may make his complaint through the Post or by appearing in person. He should enter in his petition of complaint the number of the field to which he objects. If he presents it after the lapse of 21 days or omits to insert the number, his complaint will be rejected.

*N. B.*—As the cultivator was not present at the distribution of the parcha it was handed over to B.

AMIN.

(*Notification No.* 0392 *I, dated* 30 *June* 1885, *Punjab Gazette of* 2*nd July, Part I, Page* 46[1].

(*j*). As regards remissions of canal revenue for calamity of season, see Financial Commissioner's Circulars No. 15 of 1886, and No 29 of 1887.

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# ACT No. X of 1873.

(*Passed on the 8th April* 1873).

An Act to consolidate the law relating to Judicial Oaths, and for other purposes.

Preamble.

Whereas it is expedient to consolidate the law relating to judicial oaths, affirmations, and declarations, and to repeal the law relating to official oaths, affirmations, and declarations ; It is hereby enacted as follows :—

## *I.—Preliminary.*

Short title.

1. This Act may be called "The Indian Oaths Act, 1873 :"

Local extent.

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty.

2. *Repealed by Act XII of* 1873.

Saving of certain oaths and affirmations.

3. Nothing herein contained applies to proceedings before Courts Martial, or to oaths, affirmations, or declarations prescribed by any law which, under the provisions of the Indian Councils Act, 1861, the Governor-General in Council has not power to repeal.

## *II.—Authority to administer Oaths and Affirmations.*

Authority to administer oaths and affirmations.

4. The following Courts and persons are authorized to administer by themselves or by an officer empowered by them in this behalf, oaths and affirmations in discharge of the duties or in exercise of the powers imposed or conferred upon them respectively by law :—

(*a*). All Courts and persons having by law or consent of parties authority to receive evidence ;

(*b*). The Commanding Officer of any military station occupied by troops in the service of Her Majesty : provided

(1) that the oath or affirmation be administered within the limits of the station, and

(2) that the oath or affirmation be such as a Justice of the Peace is competent to administer in British India.

## *III.—Persons by whom Oaths or Affirmations must be made.*

Oaths or affirmations to be made by—

5. Oaths or affirmations shall be made by the following persons :—

witnesses ;

(*a*). all witnesses, that is to say, all persons who may lawfully be examined, or give, or be required to give, evidence by or before any Court or person having by law or consent of parties authority to examine such persons or to receive evidence;

interpreters ;

(*b*). interpreters of questions put to, and evidence given by, witnesses, and

jurors.

(*c*). jurors.

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Nothing herein contained shall render it lawful to administer, in a criminal proceeding, an oath or affirmation to the accused person, or necessary to administer to the official interpreter of any Court, after he has entered on the execution of the duties of his office, an oath or affirmation that he will faithfully discharge those duties.

Affirmation by natives or by persons objecting to oaths.

6. Where the witness, interpreter, or juror is a Hindu or Muhammadan,

or has an objection to making an oath,

he shall, instead of making an oath, make an affirmation.

In every other case the witness, interpreter or juror shall make an oath.

*IV.—Forms of Oaths and Affirmations.*

Forms of oaths and affirmations.

7. All oaths and affirmations made under section five shall be administered according to such forms as the High Court may from time to time prescribe.

And until any such forms are prescribed by the High Court, such oaths and affirmations shall be administered according to the forms now in use.

*Explanation.*—As regards oaths and affirmations administered in the Court of the Recorder of Rangoon and the Court of Small Causes of Rangoon, the Recorder of Rangoon shall be deemed to be the High Court within the meaning of this section.

NOTE.—The forms of oaths and affirmations prescribed by the Chief Court will be found at the end of the Act.

Power of Court to tender certain oaths.

8. If any party to, or witness in, any judicial proceeding offers to give evidence on oath or solemn affirmation in any form common amongst, or held binding by, persons of the race or persuasion to which he belongs, and not repugnant to justice or decency, and not purporting to effect any third person, the Court may, if it thinks fit, notwithstanding anything hereinbefore contained, tender such oath or affirmation to him.

Court may ask party or witness whether he will make oath proposed by opposite party.

9. If any party to any judicial proceeding offers to be bound by any such oath or solemn affirmation as is mentioned in section eight, if such oath or affirmation is made by the other party to, or by any witness in, such proceeding, the Court may, if it thinks fit, ask such party or witness, or cause him to be asked, whether or not he will make the oath or affirmation :

Provided that no party or witness shall be compelled to attend personally in Court solely for the purpose of answering such question.

Administration of oath if accepted.

10. If such party or witness agrees to make such oath or affirmation, the Court may proceed to administer it, or if it is of such a nature that it may be more conveniently made out of Court, the Court may issue a Commission to any person to administer it, and authorize him to take the evidence of the person to be sworn or affirmed and return it to the Court.

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Evidence conclusive as against person offering to be bound.

11. The evidence so given shall, as against the person who offered to be bound as aforesaid, be conclusive proof of the matter stated.

Procedure in case of refusal to make oath.

12. If the party or witness refuses to make the oath or solemn affirmation referred to in section eight, he shall not be compelled to make it, but the Court shall record, as part of the proceedings, the nature of the oath or affirmation proposed, the facts that he was asked whether he would make it, and that he refused it, together with any reason which he may assign for his refusal.

*V.—Miscellaneous.*

Proceedings and evidence not invalidated by omission of oath or irregularity.

13. No omission to take any oath or make any affirmation, no substitution of any one for any other of them, and no irregularity whatever in the form in which any one of them is administered, shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution or irregularity took place, or shall affect the obligation of a witness to state the truth.

Persons giving evidence bound to state the truth.

14. Every person giving evidence on any subject before any Court or person hereby authorized to administer oaths and affirmations shall be bound to state the truth on such subject.

Amendment of Penal Code, Sections 178 and 181.

15. The Indian Penal Code, sections 178 and 181, shall be construed as if, after the word "oath," the words "or affirmation" were inserted.

Official oaths abolished.

16. Subject to the provisions of sections three and five, no person appointed to any office shall, before entering on the execution of the duties of his office, be required to make any oath, or to make or subscribe any affirmation or declaration whatever.

---

## SCHEDULE.

(ENACTMENTS REPEALED).

*Repealed by Act XII of 1873.*

NOTE.—*Oaths and Affirmations under the Indian Oaths Act, (Act X of 1873, section 7).*

Forms of oaths and affirmations prescribed.

Under section 7 of the Indian Oaths Act (X of 1873), the Chief Court has prescribed for use in the Courts of the Punjab, the annexed forms of oaths and affirmations, to be made by witnesses who may be required to give evidence by or before any Court, or duly authorized person, and by interpreters and jurors.—(*Judicial Circular No. CXXXV*).

(CIVIL).

*Oath for Witness.*

Oath for witness.

1. The evidence which I shall give to the Court in this case shall be the truth, the whole truth, and nothing but the truth. So help me God !

*Affirmation for Witness.*

Affirmation for witness.

2. I solemnly affirm in the presence of Almighty God that the evidence which I shall give to the Court in this case shall be the truth, the whole truth, and nothing but the truth. So help me God !

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*Oath for Interpreter.*

Oath for interpreter.

3. I shall well and truly interpret what is deposed by the witness before the Court.
So help me God !

*Affirmation for Interpreter.*

Affirmation for interpreter.

4. I solemnly affirm in the presence of Almighty God that I shall well and truly interpret what is deposed by the witness before the Court.

(CRIMINAL).

*Oath for Witness in cases tried by a Jury.*

Oath for witness in jury cases.

1. The evidence which I shall give to the Court and the Jury touching the matters in question between our Sovereign Lady the Queen and the prisoner at the Bar, shall be the truth, and nothing but the truth.
So help me God !

*Oath for witness in other Criminal cases.*

Oath for witness in other criminal cases.

2. The evidence which I shall give to the Court in this case shall be the truth, the whole truth, and nothing but the truth.
So help me God !

*Affirmation for Witness in cases tried by a Jury.*

Affirmation for witness in jury cases.

3. I solemnly affirm in the presence of Almighty God that the evidence which I shall give to the Court and the Jury touching the matters in question between our Sovereign Lady the Qneen and the prisoner at the Bar shall be the truth, the whole truth, and nothing but the truth.

*Affirmation for Witness in other Criminal cases.*

Affirmation for witness in other criminal cases.

4. I solemnly affirm in the presence of Almighty God that the evidence which I shall give to the Court shall be the truth, the whole truth, and nothing but the truth.

*Oath for Interpreter.*

Oath for interpreter in criminal cases.

5. I shall well and truly interpret what is deposed by the witness between our Sovereign Lady the Queen and the prisoner at the Bar.
So help me God !

*Affirmation for Interpreter.*

Affirmation for interpreter in criminal cases.

6. I solemnly affirm in the presence of Almighty God that I shall well and truly interpret what is deposed by the witness between our Sovereign Lady the Queen and the prisoner at the Bar.

*Oath for Jurors.*

Oath for jurors.

7. I shall well and truly try, and true deliverance make between our Sovereign Lady the Queen and the prisoner at the Bar and give a true verdict according to the evidence.

*Affirmation for Jurors.*

Affirmation for jurors.

8. I solemnly affirm in the presence of Almighty God that I shall well and truly try, and true deliverance make, between our Sovereign Lady the Queen and the prisoner at the Bar, and give a true verdict according to the evidence.

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## ACT No. XIV of 1873.

(*Passed on the 11th September* 1873).

An Act to provide for the security and application of the effects of Officers and Soldiers becoming insane on service, but not removed, put on half-pay, or discharged.

Preamble.

Whereas it is expedient to provide for the security and application of the effects of officers and soldiers becoming insane on service, but not removed, put on half-pay, or discharged ; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Lunatic Soldiers' Property Act , 1873 :"

Local extent.

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Native Princes and States in India in alliance with Her Majesty.

Interpretation-clause.

2. In this Act—

"Officer." "Officer" means a Commissioned Officer of Her Majesty's Army, or of Her Majesty's Indian Army; and

"Soldier." "Soldier" means a Soldier of Her Majesty's Army, or a European Soldier of Her Majesty's Indian Army, including a Warrant and a Non-Commissioned Officer.

Securing of effects of insane by Committee.

3. When an officer or soldier becomes insane on service, but is not removed, put on half-pay, or discharged, on the ground of insanity, such Committee of officers as the Governor-General in Council may from time to time prescribe ,shall immediately secure all such of his effects as are within the territories to which this Act extends.

Application of effects.

4. Such effects shall be liable to be applied in or towards payment of any expenses necessarily incurred in the maintenance and removal of such officer or soldier to any place in India, and of any such expenses and debts incurred and owing by him as would, under Part I of the Regimental Debts' Act, 1863, be preferential charges on his moveable property in case he had died on service, with the like preference, in the like order, and subject to the like provision for decision of doubt or difference, as would in that case apply, as nearly as may be, *mutatis mutandis.*

Stay of proceedings by Committee on payment of expenses and debts by representative.

5. If any person who would, if such officer or soldier were dead, be entitled to take out representation to him (otherwise than as a creditor), or his wife (if any), or any near relative, pays in full the expenses and debts aforesaid, the said Committee shall not further interfere in relation to the property.

Administration by Committee.

6. If such payment is not made, then, within one month after the insanity is known at the quarters where the property is, the said Committee may sell and convert into money such part of the property as they think fit,

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and, after paying out of the proceeds the expenses attending the discharge of their duties, shall pay thereout the expenses and debts aforesaid,

and shall dispose of any property then remaining in their hands in such manner as may from time to time be prescribed by the Governor-General in Council, or by such officer as he appoints in this behalf, to the end that the same may be applied for the benefit of the officer or soldier to whom it belongs.

Validation of payments, sales, and dispositions by Committee.

7. Every payment or application of money, and every sale or other disposition of property, made by any Committee in pursuance of this Act, shall be valid as against all persons whomsoever.

Indemnity.

And every officer belonging to any such Committee shall be discharged from all liability in respect of the money or other property so paid, applied or disposed of.

Power to make regulations.

8. The Governor-General in Council may, from time to time, prescribe such regulations as may seem fit for the better execution of any of the purposes of this Act.

NOTE.—The Governor-General in Council, in the exercise of the powers conferred on him by this Act, has directed that Committees for the purposes of the said Act shall be composed and appointed in the same manner as Committees of Adjustment under Clause 33 of the Regulations annexed to the Royal Warrant made on the 30th September 1864 under the Regimental Debts Act, 1863, and shall be guided in their proceedings by Clause 34 of the said Regulations, in so far as the same may be found applicable.

Whenever such Committee may have, in the exercise of the discretion allowed them by Section 6 of this Act, reserved from sale any portion of the lunatic's property, they shall make a special report of the matter to the Military Secretary to the Government of the Presidency in which such property is situated, and shall be guided by such instructions as they may thereupon receive from him regarding the disposal of such property.—(*Notification No.* 190, *dated 27th February* 1874—*Punjab Gazette of 5th March* 1874).

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## ACT No. II of 1874.

(*Passed on the* 10*th February* 1874).

An Act to consolidate and amend the law relating to the office and duties of Administrator-General.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to the office and duties of Administrator-General; It is hereby enacted as follows :—

### PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The Administrator-General's Act, 1874."

Local extent.

It extends to the whole of British India and, so far as regards British subjects of Her Majesty, to the dominions of Princes and States in alliance with Her Majesty;

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Commencement. And it shall come into force at once.

Repeal of Acts. 2. Act No. XXIV of 1867 *(to consolidate and amend the law relating to the office and duties of Administrator-General)* and Act No. XIX *of* 1869 *(to facilitate administration to the estates of deceased British subjects in the Hyderabad Assigned Districts)* and Act No. V of 1870 (so far as it relates to the Administrator-General) are hereby repealed.

All things duly done under any of the enactments hereby repealed shall be considered as having been done under this Act.

Interpretation-clause. 3. In this Act—unless there be something repugnant in the subject or context—

"Presidency of Bengal." "Presidency of Bengal" includes

(*a*) the territories for the time being respectively under the Governments of the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Punjab;

(*b*) the territories for the time being respectively under the administrations of the Chief Commissioners of Oudh, the Central Provinces, British Burma, Ajmer and Mairwara, Assam, and the Andaman and Nicobar Islands;

(*c*) such of the dominions of Princes and States aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct;

"Presidency of Madras." "Presidency of Madras" includes

(*a*) the territories for the time being under the Government of the Governor of Fort St. George in Council;

(*b*) such of the dominions aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct;

(*c*) Coorg;

(*d*) Mysore;

"Presidency of Bombay." "Presidency of Bombay" means

(*a*) the territories for the time being under the Government of the Governor of Bombay in Council;

(*b*) such of the dominions aforesaid as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct;

(*c*) the Haidarabad Assigned Districts:

"Presidency Town." "Presidency Town" means the town of Calcutta, Madras, or Bombay, as the case may be:

"Government." "Government" means the Governor-General in Council, so far as the Act relates to the Presidency of Bengal; the person for the time being administering the executive government of the Presidency of Fort St. George, so far as the Act relates to the Presidency of Madras; and the person for the time being administering the executive Government of the Presidency of Bombay, so far as the Act relates to the Presidency of Bombay:

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"Letters of Administration." "Letters of Administration" shall include any letters of administration, whether general or limited, or with a will annexed, and letters *ad colligenda bona* :

"Next-of-kin." "Next-of-kin" includes a widower or widow of a deceased person, or any other person who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor or legatee of the deceased :

"Officer." "Officer" means a commissioned officer of Her Majesty's Army, or of Her Majesty's Indian Army:

"Soldier." "Soldier" means a soldier of Her Majesty's Army, or European soldier of Her Majesty's Indian Army, including a warrant and a non-commissioned officer :

"Assets". "Assets" includes immoveable as well as moveable property.

NOTE.—In exercise of the power conferred by Section 3 of Act II of 1874 (the Administrator-General's Act), the Governor General in Council is pleased to direct that the dominions of Princes and States in India in alliance with Her Majesty shall, for the purposes of the said Act, be included in the Presidencies of Bengal, Madras, and Bombay, respectively, as follows :—

*In the Presidency of Bengal.*

Cooch Behar.
Hill Tipperah.
Manipur.
The States in the Jynteah and Cossyah hills.
The tributary mehals of Chota Nagpore.
The tributary mehals of Cuttack.
Rampur.
Tehri (Garhwal).
Baghal.
Baghat.
Bahawulpur.
Balsan.
Bashahr.
Bhajji.
Bija.
Chamba.
Darkuti.
Dhami.
Dujana.
Faridkot.
Hindur (Nalagarh).
Jind.
Jubbal.
Jummoo and Kashmir.
Kahlur (Bilaspur).
Kalsia.
Kapurthala.
Keonthal.
Kumharsani.
Kunhiar.
Kuthar.
Loharu.
Mailog.
Maler Kotla.
Mandi.
Mungal.
Nabha.
Pataudi.
Patiala.
Sangri.
Sirmur (Nahan).
Suket.
Taroch.
Bhurtpore.
Bikanir.
Boondee.
Dholpur.
Jeypore.
Jesulmer.
Jhallawar.
Jodhpore or Marwar.
Kerauli.
Kishengarh.
Kotah.
Lawa.
Shahpura.
Tonk, with the exception of Pirawa, Nibhera and Seronje.
Ulwur.
The Marwarra perganas belonging to Meywar and Marwar.
Gwalior.
The whole State excepting the Sir Subaship of Malwaand certain districts under the Sir Subah of Isagarh which are included in the Presidency of Bombay.
Bundelkhand and Baghelkand States and Chiefships :—
Ajaigarh.
Alipura.
Baoni.
Baraunda.
Behat.
Beri.
Bhaisaunda.
Bijawar.
Bijna.
Charkhari.
Chhaturpur.
Datia.
Dhurwai.
Garrauli.
Gaurihar.
Jaso.
Jigni.
Kamta Rajaula.
Khaniadhana.
Kothi.
Lughasi.
Maihar.
Nagode.
Nayagaon.
Orchha.
Pahari Banka.
Pahara.
Paldeo.
Panna.
Rewah.
Samthar.
Sarila.
Sohawal.
Taraon.
Tori Fatehpur.
Holker's district of Alampur.

* * * * * * * * *

(*Government of India No.* 101 *J, dated* 19*th July* 1878).

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Foreign Department Notification No. 101-J., dated the 19th July 1878.

In exercise of the powers conferred by Section 3 of the Admininistrator-General's Act (II of 1874), and in continuation of the Notification cited in the margin, the Governor-General in Council is pleased to direct that the dominions of His Highness the Khan of Kalat shall, for the purposes of the said Act, as regards British subjects of Her Majesty in those dominions, be deemed to be included in the Presidency of Bengal.

(*Government of India No.* 510 *E., dated 2nd March* 1887, *Gazette of India of 5th idem*)

## PART II.

### Of the Office of Administrator-General.

Designation of the Administrators-General in the three Presidencies.

4. In each of the Presidencies of Bengal, Madras and Bombay, there shall be an Administrator-General.

The said Administrators-General shall be called respectively the Administrator-General of Bengal, the Administrator-General of Madras, and the Administrator-General of Bombay.

Appointment, suspension and removal of Administrators-General.

5. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively; that is to say:—

The Administrator-General of Bengal, by the Governor-General in Council:

the Administrator-General of Madras, by the Government of Fort St. George; and

the Administrator-General of Bombay, by the Government of Bombay.

Qualification of future and continuance of existing incumbents.

6. Any person hereafter appointed to the office of Administrator-General or officiating Administrator-General of any of the said Presidencies, shall be a member of the Bar of England or Ireland, or of the Faculty of Advocates in Scotland; but any person now holding such office shall continue to hold the same, subject to the provisions contained in the other sections of this Act.

Administrator-General not an officer of High Court.

7. The Administrator-General shall not be deemed in that capacity to be an officer of any High Court.

Probates, &c., granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to Administrator-General.

8. All probates and letters of administration granted by any of the late Supreme Courts of Judicature to the Ecclesiastical Registrar of such Court in virtue of his office, shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act, as if they had been granted to the Administrator-General.

No Administrator-General to be Ecclesiastical Registrar.

Administrator-General not to hold any other office without sanction of Government.

9. No person now holding the office of Administrator-General, or hereafter to be appointed to such office in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar; nor, without the express sanction of Government, any other office together with that of Administrator-General:

Provided that the Administrator-General of the Presidency may be appointed Official Trustee under Act No. XVII of 1864 (*to constitute an office of Official Trustee*):

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Provided also, that the Administrator-General of Bengal may hold the office of Receiver of the High Court of Judicature at Fort William.

Penalty for trading.

Exception.

10. It is hereby declared to be an offence punishable in manner provided by section one hundred and sixty-eight of the Indian Penal Code, for any Adminstrator-General to trade or traffic for his own benefit, or for the benefit of any other person, unless so far as appears to him to be expedient for the due management of the estates which come into his charge under the provisions of this Act, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator-General as trustee of such estates.

Security to be given by Administrator-General.

11. Unless the Governor-General in Council, or the Government, with the sanction of the Governor-General in Council, otherwise orders, every Administrator-General hereafter to be appointed shall give security to the Secretary of State for India for the due execution of his office, for one lakh of rupees by his own bond, and for another lakh of rupees, or for separate sums amounting together to one lakh of rupees, by the deposit of Government securities, or by the joint and several bond or bonds of two or more securities to be approved by Government, or partly by such deposit and partly by such bond or bonds.

Substitution of security or sureties.

Provided that every Administrator-General may, with the consent of Government, substitute either of the said two last-mentioned kinds of security for another previously given for such last-mentioned lakh or any part of it:

and every Administrator-General may, with the consent of Government, and shall from time to time when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound, so far as the security relates to the due execution of his office for the time then to come.

No security nor oath to be required from Administrator-General.

12. No Administrator-General shall be required by any Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office.

No Administrator-General shall be required to verify, otherwise than by signature, any petition presented by him under the provisions of this Act, and if the facts stated in any such petition are not within the Administrator-General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification.

Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Appointment of officiating Administrator-General.

13. Whenever any person holding the office of Administrator-General obtains leave of absence, the Government may appoint some person to officiate as Administrator-General, and such person, while so officiating, shall be subject to the same conditions and be bound by the same responsibilities as the Administrator-General by any law for the time being in force, and he shall be deemed to be Administrator-General for the time being under this Act, and shall be liable to give security under section eleven in like manner as if he had been appointed Administrator-General.

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## PART III.

### Of the Rights, Powers, and Duties of the Administrator-General.

#### (a). *Grant of Letters of Administration and Probate to the Administrator-General.*

As regards Administrator-General, High Court at Presidency town to be deemed a Court of competent jurisdiction within meaning of Act X of 1865, sections 187 and 190.

14. So far as regards the Administrator-General of any of the Presidencies of Bengal, Madras, and Bombay, the High Court at the Presidency town shall be deemed to be a Court of competent jurisdiction within the meaning of sections one hundred and eighty-seven and one hundred and ninety of the Indian Succession Act, 1865, wheresoever within the Presidency the property to be comprised in the probate or letters of administration may be situate.

Administrator-General entitled to letters of administration, unless granted to next-of kin.

15. Any letters of administration, or letters *ad colligenda bona*, hereafter granted by the High Court of Judicature at any Presidency town, shall be granted to the Administrator-General of the Presidency, unless they are granted to the next- of-kin of the deceased.

Administrator-General entitled in preference to creditor, non-universal legatee or friend.

The Administrator-General of the Presidency shall be deemed by all the Courts in the Presidency to have a right to letters of administration in preference to that of any person merely on the ground of his being a creditor, a legatee other than an universal legatee, or a friend of the deceased.

When administration of estates of persons other than Hindus, &c., is to be by Administrator-General.

16. If any person, not being a Hindu, Muhammadan, Parsi, or Buddhist, or a person exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall have left assets exceeding at the date of the death or within one year thereafter the value of one thousand rupees within any of the said Presidencies,

and if no person to whom the Court would have jurisdiction to commit administration of such assets has, within one month after his death, applied in such Presidency for probate of his will, or for any letters of administration of his estate,

the Administrator-General of the Presidency in which such assets are, shall, within a reasonable time after he has had notice of the death of such person, and of his having left such assets as aforesaid, take such proceedings as may be necessary to obtain from the High Court at the Presidency town, letters of administration to the effects of such person, either generally or with a will annexed, as the case may require.

Whenever the Administrator-General of the Presidency takes proceedings under this section, it shall be sufficient if the petition required by section two hundred and forty-six of the Indian Succession Act, 1865, states

(a) the time and place of the deceased's death to the best of the petitioner's knowledge or belief,

(b) that the deceased left some property within the Presidency as hereinbefore defined, and

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(c) the amount or value of assets which are likely to come into the petitioner's hands.

Power to direct Administrator-General to apply for administration.

17. Whenever any person, whether a Hindu, Muhammadan, Parsi, or Buddhist, or not, shall have died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court at the Presidency town, it shall be lawful for the Court,

upon the application of any person interested in such assets, or in the due administration thereof, either as a creditor, legatee, next-of-kin, or otherwise, or

upon the application of a friend of any minor so interested, or

upon the application of the Administrator-General,

if the applicant satisfies the Court that danger is to be apprehended of the misappropriation, deterioration, or waste of such assets unless letters of administration of the effects of such person are granted,

to make an order upon such terms as to indemnifying the Administrator-General against costs and other expenses as the Court thinks fit, directing the Administrator-General to apply for letters of administration of the effects of such person :

Administration to effects of Hindus, &c., when granted under this section.

Costs of unnecessary application.

Provided that, in the case of an application being made under this section for letters of administration to the effects of a deceased Hindu, Muhammadan, Parsi, or Buddhist, or person exempted as aforesaid, the Court may refuse to grant letters of administration to any person, if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the Court shall make such order as to the costs of the application as it thinks just.

Power to enjoin Administrator General to collect and hold assets until right of succession or administration is ascertained.

18. Whenever any person, whether a Hindu, Muhammadan, Parsi, or Buddhist, or not, shall have died, whether before or after the passing of this Act, leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts, and such Court is satisfied that danger is to be apprehended of the misappropriation, deterioration, or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator-General is entitled to letters of administration to such deceased person,

the Court may authorize and enjoin the Administrator-General to collect and take possession of such property, and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property ;

Rate of commission payable in such case.

and the Administrator-General shall be entitled to a commission of one *per centum* upon the amount of all moveable assets collected or received by him in pursuance of such order, and also to reimburse himself for all payments made by him in respect of the assets which a private administrator of such assets might lawfully have made ;

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and in case letters of administration of any such property are afterwards granted to the Administrator-General, the said commission of one *per centum* shall be deemed a part payment of the commission payable to the Administrator-General under the letters of administration.

Any order of Court made under the provisions of this section shall entitle the Administrator-General to collect and to take possession of such property, and, if necessary, to maintain a suit for the recovery thereof.

Note.—In the above three sections the word "Parsi" is inserted by Act IX of 1881.

Probate to be granted to executor appearing in the course of proceedings taken by Administrator-General.

19. If in the course of proceedings to obtain letters of administration under the provisions of section sixteen or section seventeen,

any executor appointed by a will of the deceased appears according to the practice of the Court and proves the will and accepts the office of executor,

or if any person appears according to such practice and makes out his claim to letters of administration as next-of-kin of the deceased, and gives such security as is required of him by law or by the practice of the Court,

the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator-General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary or intestate expenses thereof.

Costs of proceedings taken by Administrator-General to be paid out of estate.

If no executor or next-of kin appear or give necessary security, administration to be granted to Administrator-General.

20. If no person appears according to the practice of the Court, and entitles himself to probate of a will, or to a grant of letters of administration as next-of-kin of the deceased,

or if the person who entitles himself to a grant of administration neglects to give such security as may be required of him by law or according to the practice of the Court,

the Court shall grant letters of administration to the Administrator-General.

Administrator-General in certain cases to secure and distribute the effects of soldiers.

21. The Administrator-General shall, when duly authorized or required so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of any officer, soldier, or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed in the whole five hundred rupees, charging the estate with a commission of three *per centum* only.

Proviso.

It shall not be necessary for the Administrator-General to take out letters of administration in cases referred to in this section: but he shall have the same powers with regard to all such assets as he would have had if he had taken out such letters.

Power to grant Administrator-General letters limited to purpose of dealing with assets in accordance with Regimental Debts Act.

22. When the Administrator-General applies for letters of administration to the effects of any officer, soldier, or other person, subject to the Articles of War, the Court may grant to him letters of administration limited to the purpose of dealing with such effects in accordance with the provisions of the Regimental Debts Act,

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1863, or any other law for the time being in force relating to the payment of regimental debts and the distribution of the effects of officers dying on service.

Administrator-General not precluded from applying for letters in any case within one month after death.

23. Nothing in this Act is intended to preclude the Administrator-General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

Effect of probate or letters granted to Administrator-General.

23. A. Probate or letters of administration granted by the High Court at Calcutta, Madras or Bombay to the Administrator-General of the Presidency of Bengal, Madras or Bombay, as the case may be, shall have effect over all the property and estate, moveable or immoveable, of the deceased throughout such Presidency, and shall be conclusive as to the representative title against all debtors of the deceased, and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such property to such Administrator-General: Provided that the High Court may direct, by its grant, that such probate or letters of administration shall have like effect throughout either or both of the other Presidencies.

Whenever a grant of probate or letters of administration is made by a High Court to the Administrator-General, with such effect as last aforesaid, the Registrar of such Court shall send to each of the other two High Courts a certificate that such grant has been made, and such certificate shall be filed by the Court receiving the same.

NOTE.—This section has been added by Act IX of 1881.

After revocation, letters of administration granted to Administrator-General to be deemed as to him to have been voidable only.

24. If any letters of administration granted to the Administrator-General under the provisions of this Act be revoked or recalled, the same shall, so far as regards the Administrator-General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable; except as to any act done by any such Administrator-General or other person as aforesaid, after notice of a will or of any other fact which would render such letters void:

Exception.

Proviso.

Provided that no notice of a will or of any other fact which would render any such letters void shall affect the Administrator-General or any person acting under his authority in pursuance of such letters, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the will, or to cause the letters to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

Validity of payments made by Administrator-General prior to revocation of administration.

25. If any letters of administration granted under this Act be revoked upon the production and proof of a will, all payments made or acts done by or under the authority of the Administrator-General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such will annexed, shall be deemed valid notwithstanding such revocation.

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Recall of Administrator-General's administration, and grant of probate, &c., to executor or next-of-kin.

26. If an executor or next-of-kin of the deceased, who has not been personally served with a citation or who has not had notice thereof in time to appear pursuant thereto, establish to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator-General, any letters of administration granted by virtue of this Act to the Administrator-General may be re-called and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid:

Time within which application to revoke such administration must be made.

Provided that no letters of administration granted to the Administrator-General shall be revoked or re-called for the cause aforesaid, except in cases in which a will or codicil of the deceased is proved in the Presidency, unless the application for that purpose be made within six months after the grant to the Administrator-General, and the Court be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application is made.

Costs of obtaining administration, &c., may, on revocation, be ordered to be paid to Administrator-General out of assets.

27. If any letters of administration granted to the Administrator-General in pursuance of this Act be revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator-General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator-General out of any assets belonging to the estate:

Provided that, in any such case, when the deceased has left a will appointing an executor, and probate of the will has been granted by any Court in the Presidency to such executor within three months after the death, or when the widow or next-of-kin has, within one month if resident within the Presidency, or within three months if resident beyond the Presidency, obtained from any such Court letters of administration to the estate and effects of the deceased, then and in either of such cases the Administrator-General shall (without prejudice to the provisions contained in sections seventeen and eighteen) not be entitled to receive or retain any commission out of any assets belonging to such estate and situate within the jurisdiction of the Court by which probate or administration has been granted as last aforesaid.

Distribution of assets.

28. When the Administrator-General has given such notices as would have been given by the High Court in an administration-suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he had not notice at the time of such distribution; and no notice of any claim shall affect him unless proceedings to enforce such claim are commenced within one month after the giving of such notice and prosecuted without unreasonable delay.

Nothing herein contained shall prejudice the right of any creditor or other claimant to follow the assets or any part thereof in the hands of the persons who may have received the same, respectively.

NOTE.—This section has been substituted by Act IX of 1881.

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Letters of administration to be granted to Administrator-General by his name of office.

29. All letters of administration granted to any Administrator-General in virtue of his office shall be granted to him by his name of office,

Authority given by such letters.

and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator-General officially, or granted to any Administrator-General in virtue of his office, shall authorize the Administrator-General for the time being of the same Presidency to act as administrator of the estate to which such letters relate.

Grant of probate to Administrator-General named as executor by virtue of his office.

30. Every probate granted to any Administrator-General of a will wherein he is named as executor by virtue of his office, shall be granted to him by his name of office, and shall authorize the Administrator-General for the time being of the same Presidency to act as executor of the estate to which such probate relates.

Transfer by private executor or administrator of interest under probate or letters of administration.

31. Any private executor or administrator, may, with the previous consent of the Administrator- General of the Presidency in which the property comprised in the probate or letters of administration is situate, by an instrument in writing under his hand, notified in the local Gazette, transfer all estates, effects and interests vested in him by virtue of such probate or letters to the Administrator-General by his name of office ;

and thereupon the transferor shall be exempt from all liability as such executor or administrator, as the case may be, for any act or omission in respect of the said property after the date of the said transfer ;

and the Administrator-General for the time being shall have the rights and be subject to the liabilities which he would have had, and to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by his name of office at the date aforesaid.

Nothing herein contained shall be taken to exempt any such transferor from liability for acts and omissions in respect of the said property prior to the transfer.

Appointment of Official Trustee as trustee of assets carried to separate accounts.

32. Whenever the Administrator-General carries over assets to separate accounts in his books, he shall notify the fact in the local official Gazette ; and he may, with the consent of the Official Trustee, and subject to such rules as the Governor-General in Council may from time to time prescribe in this behalf, appoint the Official Trustee to be the trustee of such assets ; and upon such appointment such assets shall vest in the Official Trustee and his successors in office, and be held by him and them upon the same trusts as the same assets were held immediately before such appointment. And for the purposes of Act No. XVII of 1864, such assets shall be deemed to have been vested in the Official Trustee under section ten of that Act.

Vesting of estates, &c., in success or of Administrator-General.

33. All estates, effects, and interests which at the time of the death, resignation, or removal from office of any Administrator-General, are vested in him by virtue of such letters of administration, probates or transfers as

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aforesaid, shall, upon every such death, resignation, or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto.

All books, papers and documents kept by such Administrator-General by virtue of his office, or as such executor or transferee as aforesaid, shall be transferred to and vested in his successor in office.

*(b).—Suits by and against the Administrator-General.*

Administrator-General to sue and be sued in his name of office.

**34.** All suits and other proceedings commenced by or against any Administrator-General in his representative character may be brought by or against him by his name of office,

Suit not to abate by death, &c.

and no suit or other proceeding heretofore or hereafter commenced by or against any person as Administrator-General, either alone or jointly with any other person, shall abate by reason of the death, resignation, or removal from office of any such Administrator-General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued by or against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred :

Proviso as to costs.

Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the suit against him.

Criditors' suits against Administrator-General.

**35.** If any suit be brought by a creditor against any Administrator-General in his representative character, the plaintiff shall be liable to pay the costs of the suit down to and including the decree, unless upon proof by affidavit or otherwise that not less than one month previous to the institution of the suit he had applied in writing to the Administrator-General, stating the amount and other particulars of the claim, and supporting the same by such evidence as, under the circumstances of the case, the Administrator-General was reasonably entitled to require, and that the Administrator-General had refused or neglected to register the claim according to the practice of his office.

If in any such suit judgment is pronounced in favour of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased equally and rateably with the other creditors.

*(c).—Grant of Certificates by the Administrator-General.*

In what case Administrator-General may grant a certificate.

**36.** Whenever any person shall have died, whether within any of the said Presidencies or not, whether before or after the passing of this Act, and whether testate or intestate, and shall have left assets (whether moveable, immoveable, or both) within any of the said Presidencies, and the Administrator-General of such Presidency is satisfied that such assets do not exceed in the whole one thousand rupees in value, he may after the lapse of one month from the death if he thinks fit, or before the lapse of the said month, if he is requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the effects of the deceased, grant to any person claiming otherwise than as a creditor to be entitled to a share of such

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assets, certificates under his hand entitling the claimant to receive the property therein mentioned, belonging to the estate of the deceased, to a value not exceeding in the whole one thousand rupees :

No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings Bank.

Provided that no certificate shall be granted under this section where probate of the deceased's will or letters of administration of his effects has or have been granted, or in respect of any sum of money deposited in a Government Savings Bank.

NOTE.—This section has been amended by Act IX of 1881.

Grant of certificate to creditors.

**37.** If in cases falling within section thirty-six, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator-General under the same section, or letters of administration to the estate and effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi, or Buddhist, or exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act, the Administrator-General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him ;

and if he neglect or refuse to take upon himself the administration of the estate and effects, he shall, upon the application of a creditor and upon being satisfied of his title, grant a certificate in the same manner as if such creditor were entitled to a share of the effects of the deceased,

and such certificate shall have the same effect as a certificate granted under the provisions of the same section, and shall be subject to all the provisions of this Act which are applicable to such certificate :

Proviso.

Provided that the Administrator-General may, before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

NOTE.—As amended by Act IX of 1881.

Administrator-General not bound to grant certificate unless satisfied of claimant's title, &c.

**38.** The Administrator-General shall not be bound to grant any certificate under section thirty-six or section thirty-seven unless he be satisfied of the title of the claimant and of the value of the assets of the deceased either by the oath or affirmation of the claimant or by such other evidence as he requires.

NOTE.—As amended by Act IX of 1881.

Copy of certificate with receipt annexed, when signed by certificate-holder, to be a discharge.

**39.** A copy of any such certificate with a receipt annexed shall, when such copy and receipt are signed by the person to whom the certificate has been granted, be a full discharge for payment or delivery to him of the money or security for money therein mentioned, to the person paying or delivering the same:

Right of executor or administrator against certificate-holder.

but nothing in this Act shall preclude any executor or administrator of the deceased from recovering, from the person receiving the same, the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration.

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And any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Right of creditor against assets in hands of certificate-holder.

**40.** The Administrator-General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he grants any such certificate, but he may do so if he discover any fraud or misrepresentation made to him, or that the value of the estate exceeded one thousand rupees.

Administrator-General not bound to take out administration on account of effects in respect of which he has granted certificate.

**41.** For every such certificate the Administrator-General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

Fee for certificate.

(*d*).—*Expenses of the Administrator-General's Establishment.*

**42.** The Administrator-General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office is subject, except those for which express provision is made by this Act.

Administrator-General to defray expenses of establishment.

(*e*).—*Accounts and Schedules.*

**43.** The Administrator-General of each of the said Presidencies shall enter into books to be kept by him for that purpose separate and distinct accounts of each estate, and of all such sums of money, bonds, and other securities for money, goods, effects and things as come to his hands, or to the hands of any person employed by him or in trust for him under this Act; and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively.

Administrator-General to keep separate account for each estate, to be open to inspection on payment of fee.

Such books shall be kept in the Administrator-General's office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee for the time being fixed by the Government and published in the official Gazette of the Presidency to which the same may relate.

**44.** The Administrator-General of each of the said Presidencies shall twice in every year, that is to say, on or before the first day of April, and on or before the first day of October, or on such other days as the Government, by any rules or orders to be published as aforesaid, may direct, exhibit and deliver, in the High Court at Calcutta, Madras, or Bombay, as the case may be,

Administrator-General to furnish half-yearly schedules.

(*a*) a schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the

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balances during the period of six months ending severally on the thirty-first day of December and thirtieth day of June next before the day of delivering such schedule,

(*b*) a list of all bonds or other securities received on account of each of the said estates during the same period,

(*c*) a schedule of all administrations whereof the final balances have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances and the persons to whom paid.

Schedules to be filed and published.

Such schedules shall be filed on record in such High Court, and shall, within fourteen days afterwards, be published in the official Gazette of the Presidency by the Administrator-General;

and copies thereof in triplicate shall be delivered by such Administrator-General to the Government, and shall be sent by such Government to the Secretary of State for India, in order that such Secretary may, if he think fit, order the same to be deposited at the India Office for public inspection, and cause notices to be published in the *London Gazette* and other leading newspapers, that such schedules are open to inspection there, or make such other orders respecting the same as he thinks fit.

## PART IV.

### Of the Audit of the Administrator-General's Accounts.

Government to appoint auditors.

**45.** The Government shall from time to time appoint auditors to examine the accounts of the Administrator-General at the times of the delivery of the said schedules, and also at any other time when the Government thinks fit.

Auditors to examine schedules, and report to Government.

**46.** The auditors shall examine the schedules and accounts, and report to the Government—

(*a*) Whether they contain a full and true account of everything which ought to be inserted therein,

(*b*) whether the books which by this Act, or by any such general rules and orders as hereinafter mentioned, are directed to be kept by the Administrator-General, have been duly and regularly kept, and

(*c*) whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or by any such rules and orders to be made as aforesaid.

Auditors to have power to summon witnesses and to call for books, &c.

**47.** Every auditor shall have power to summon as well the Administrator-General as any other person whose presence he thinks necessary, to attend him from time to time; and to examine the Administrator-General or other person if he thinks fit, on oath or affirmation to be by him administered; and to call for all books, papers, vouchers and documents, which appear to him to be necessary for the purposes of the said reference.

If the Administrator-General or other person when summoned refuses, or, without reasonable cause, neglects to attend or to produce any book, paper, voucher or document so required, or attends and refuses to

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be sworn or make an affirmation, or refuses to be examined, the auditors shall certify such neglect or refusal in writing to the High Court at the Presidency town;

and every person so refusing or neglecting shall thereupon be punishable in like manner as if such refusal or neglect had been in contempt of the said High Court.

Penalty for non-attendance.

48. The costs and expenses of preparing and publishing the said schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates to which such schedules or accounts relate.

Costs of preparing schedules, &c, how to be paid.

Such costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator-General.

49. If upon any such reference and examination the auditors see reason to believe that the said schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or by any such rules and orders as aforesaid, or that the Administrator-General has failed to comply with the provisions and directions of this Act, or of any such rules and orders, they shall report accordingly to the Government.

Auditors to report specially to Government if accounts appear incorrect.

50. The Government may refer every such report as last aforesaid to the consideration of the Advocate-General for the Presidency, who shall thereupon, if he think fit, proceed summarily against the defaulter or his executor or administrator in the High Court in the Presidency town, by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter;

Proceedings upon such report.

and the said Advocate-General may exhibit interrogatories to the said Administrator-General, executor or administrator (hereinafter called the defendant), who shall be bound to answer the same as fully as if a commission had been issued under the provisions of the Code of Civil Procedure for his examination upon the said interrogatories.

The Court shall have power upon any such petition to compel the attendance in Court of the defendant and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court thinks fit, and to make and enforce such order or orders as the Court thinks just.

51. The costs, including those of the Advocate-General and of the reference to him, if the same be directed by the Court to be paid, shall be defrayed either by the defendant or out of the estates rateably as the said Court directs; and whenever any costs are recovered from the defendant, the same shall be paid to the estates by which they have been

Costs of reference, &c., how to be defrayed.

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in the first instance contributed, and the Court may, if it think fit, order the defendant to receive his costs out of the said estates.

## PART V.

### Of the Commission of the Administrator-General.

Commission to be received by Administrators-General.

**52.** The Administrator-General of each of the said Presidencies, under any letters of administration granted to him in his official character, or under any probate granted to him of a will wherein he is named as executor by virtue of his office, or under any probates or letters of administration vested in him by section eight or section thirty-one, shall be entitled to receive a commission at the following rates respectively, namely:—

The Administrator-General of Bengal at the rate of three *per centum*, and the Administrator-General of Madras and Bombay respectively at the rate of five *per centum*, upon the amount or value of the assets which they respectively collect and distribute in due course of administration.

Section 52 not to apply to property of officers and soldiers dying on service, coming to hands of Administrator-General.

**53.** The last preceding section shall not apply to cases in which the property of an officer or soldier dying on service comes to the hands of the Administrator-General of any of the said Presidencies, under the ninth or the twelfth section of the Statute called "The Regimental Debts' Act, 1863;"

Administrator-General entitled to a commission of only three per cent on gross amount of such property.

and such Administrator-General shall not take a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of the Administrator-General's Act, 1865, if preferential charges as defined by the fourth section of the said Statute have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

What expenses, &c., commission is to cover.

**54.** The Administrator-General shall be entitled to reimburse himself for any payments made by him in respect of any estates in his charge, which a private administrator of such estate might have lawfully made; but save as aforesaid, the commission to which the Administrator-General of each of the said three Presidencies shall be entitled is intended to cover not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration.

How payable.

It is therefore enacted that one-half of such commission shall be payable to and retained by such Administrator-General upon the collection of the assets, and the other half thereof shall be payable to the Administrator-General who distributes any assets in the due course of administration, and may be retained by him upon such distribution.

Commission retained to be deemed a distribution.

The amount of the commission lawfully retained by an Administrator-General upon the distribution of assets, shall be deemed a distribution in the due course of administration within the meaning of this Act.

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*Explanation.*—The carrying of assets to separate accounts in the books of the Administrator-General notified as hereinbefore provided, and the transfer of assets to the Official Trustee, shall each be deemed to be a distribution within the meaning of this section.

Commission of the Administrator-General of Bengal may be raised and again reduced.

**55.** The Governor-General in Council may from time to time order the rate of commission hereinbefore authorized to be received by the Administrator-General of Bengal to be raised to any rate not exceeding five *per centum* upon the amount or value of the assets which he collects and distributes in due course of administration and again to be reduced.

Commission of the Administrators-General of Madras and Bombay may be reduced and again raised.

The Governments of the Presidencies of Fort St. George and Bombay respectively may, with the sanction of the Governor-General in Council, from time to time order the aforesaid rate of commission hereby authorized to be received by the Administrators-General of Madras and Bombay respectively to be reduced and again to be raised :

Proviso.

Provided that the commission so to be received shall not at any time exceed five *per centum* of the assets collected, and that no person now holding the office of Administrator-General of Bengal, Madras, or Bombay shall, by any such order, be deprived of the right to receive and retain, for his own use, a commission at the rate of three *per centum* in respect of all assets collected and actually administered by him.

Commission on assets collected beyond Presidency.

**55 A.** Notwithstanding anything hereinbefore contained, an Administrator-General of a Presidency obtaining probate or letters of administration operating in another Presidency shall be entitled to the same rate of commission in respect of the collection and distribution of assets collected in such Presidency as the Administrator-General of such Presidency would have been entitled to if such assets had been collected and distributed by him, and to no higher rate.

NOTE.—The above section is added by Act IX of 1881.

Commission not to be charged by executor or administrator other than the Administrator-General.

**56.** No person other than the Administrator-General acting officially shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court or High Court at Fort William in Bengal since the passing of Act No. VII of 1849 (*for the appointment of an Administrator-General in Bengal*), or by either of the Supreme or High Courts at Madras and Bombay since the passing of Act No. II of 1850 (*to amend and extend to Madras and Bombay Act No. VII* of 1849), or which have been or shall be granted by any Court of competent jurisdiction within the meaning of sections one hundred and eighty-seven and one hundred and ninety of the Indian Succession Act, 1865; but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Bequest in favour of executors not affected.

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## PART VI.

### MISCELLANEOUS.

Power to make rules.

**57.** The Government may from time to time make rules consistent with the provisions of this Act,

For custody of assets.

(*a*) for the safe custody of the assets and securities which come to the hands or possession of the Administrator-General,

For remittance of money.

(*b*) for the remittance to the India Office of all sums of money payable or belonging to persons resident in Europe, or in other cases where such remittances are required,

For guidance of Administrator-General.

(*c*) generally for the guidance of the Administrator-General in the discharge of his duties;

and may by such rules amongst other things direct what books, accounts and statements, in addition to those mentioned in this Act, shall be kept by the Administrator-General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator-General shall be kept and invested or deposited pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made.

Proviso as to rules now in force.

Unless any such rules are made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published hereunder.

NOTE.—In exercise of the powers conferred by Section 57, Clause (*b*) of the Administrator-General's Act, 1874, the Governor-General in Council is pleased to make the following Rule :—

*Rule.*—For the purpose of remitting to the India Office any sum of money payable or belonging to any person resident in Europe, or in other cases when such remittances are required, any Administrator-General of Bengal hereafter appointed under Section 5 of the Act, shall purchase bills of exchange payable in London at a time not more than six months from the date thereof drawn by such banks or firms as the Governor-General in Council may from time to time approve in this behalf. Every approval of a bank or firm for the purposes of the Rule shall be given by an order in writing signed by a Secretary to the Government of India, and shall continue in force for a period of one year from the date thereof or until revoked within such period by a like order.—(*Government of India No.* 2712, *dated* 30*th August* 1878).

Publication of new rules.

**58.** Such rules shall be published in the *Gazette of India*, the *Fort St. George Gazette*, or the *Bombay Government Gazette*, as the case may be, and the several Administrators-General shall obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Power to decide when commission shall be deemed payable.

**59.** The Governor-General in Council may, from time to time, either by general rule, or by special order in a particular case, decide any question as to the time at which any commission accruing to the Administrator-General in his officialcapacity shall be deemed to have been payable ; and such decision shall bind every Administrator-General and the estates held by him in his official capaity.

Order of Court to be equivalent to decrees.

**60.** Any order made under this Act by any Court shall have the same effect and be executed in the same manner as a decree.

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Power to examine on oath.

60 A. The Administrator-General may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, examine on oath or affirmation (which he is hereby authorised to administer or take) any person who is willing to be so examined by him regarding such question.

NOTE.—As enacted by Act IX of 1881.

False evidence.

61. Whoever, having been sworn or having taken an affirmation under this Act, makes upon any examination authorized by this Act, a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Assets unclaimed for fifteen years to be transferred to Government.

62. All assets in the official charge of the Administrator-General of any of the said Presidencies, and appearing from the official books and accounts of the Ecclesiastical Registrar and of the Administrator-General of any of those Presidencies, or from the official books and accounts of any of those officers, to have been in official custody for a period of fifteen years or upwards without any claim thereto having been made and allowed, shall be transferred and paid to the Comptroller-General of Accounts or to the Accountant-General to the Government of Fort St. George or Bombay, as the case may be, and be carried to the account and credit of the Government of India for the general purposes of government ;

and the receipt of the said Comptroller-General or Accountant-General, as the case may be, shall be a full indemnity and discharge to the said Administrator-General for any such transfer or payment :

Proviso.

Provided that this Act shall not authorize the transfer or payment of any such proceeds as aforesaid, pending any suit heretofore or hereafter instituted in respect thereof.

Mode of proceeding by claimant to recover principal money so transferred.

63. If any claim be hereafter made to any part of the securities, monies, or proceeds carried to the account and credit of the Government of India under the provisions of this Act, and if such claim be established to the satisfaction of the Comptroller-General or the Accountant-General to the Government of Fort St. George or Bombay, as the case may be, the Government of India shall pay to the claimant the amount of the principal so carried to its account and credit, or so much thereof as appears to be due to the claimant.

If the claim be not established to the satisfaction of the said Comptroller-General or Accountant-General, as the case may be, the claimant may apply by petition to the High Court at the Presidency town against the Secretary of State for India, and after taking evidence either orally or on affidavit in a summary way as the Court thinks fit, the Court shall make such order on the petition for the payment of such portion of the said principal sum as justice requires, and such order shall be binding on all parties to the suit,

and the Court may direct by whom the whole or any part of the costs of each party shall be paid.

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District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator-General.

64. Whenever any person, other than a Hindu, Muhammadan, Parsi, or Buddhist, or a person exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act, dies leaving assets within the limits of the jurisdiction of a District Judge, the District Judge shall report the circumstance without delay to the Administrator-General of the Presidency, stating the following particulars so far as they may be known to him :—

(*a*) the amount and nature of the assets,

(*b*) whether or not the deceased left a will, and, if so, in whose custody it is,

and, on the lapse of one month from the date of the death,

(*c*) whether or not any one has applied for probate of the will of the deceased or letters of administration to his effects.

The District Judge shall retain the property under his charge, or appoint an officer under the provisions of the Indian Succession Act, 1865, two hundred and thirty-nine, to take and keep possession of the same until the Administrator-General has obtained letters of administration, or until some other person has obtained such letters or a certificate from the Administrator-General under the provisions of this Act, when the property shall be delivered over to the person obtaining such letters of administration or certificate, or, in the event of a will being discovered, to the person who may obtain probate of the will.

NOTE.—The word "Parsi" is inserted in the above section by Act IX of 1881.

Act not to require administration of estates of soldiers, unless Administrator-General authorized by Military Secretary or Committee of Adjustment.

65. Nothing in this Act is intended to require the Administrator-General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, unless when the Administrator-General is duly authorized or required so to do by the Military Secretary to Government, or by a Committee of Adjustment or other officers or persons acting under any law for the time being in force relating to the payment of regimental debts ;

nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts, and the distribution of the effects of officers and soldiers dying in the service of Her Majesty in India, or of any Articles of War.

Indian Succession Act and Indian Companies' Act not to affect Administrator-General.

66. Nothing contained in the Indian Succession Act, 1865, or the Indian Companies' Act, 1866, shall be taken to supersede or affect the rights, duties, and privileges of the Administrators-General and officiating Administrators-General of Bengal, Madras, and Bombay respectively.

Saving of provisions of Presidency Police Acts as to petty estates.

And nothing contained in the Indian Succession Act, 1865, or in this Act, or in the said Act No. XXIV of 1867, shall be deemed to affect, or to have affected, any provisions for the time being in force relating to the moveable property under two hundred rupees in value of persons dying intestate within any of the Presidency towns, which shall be or has been taken charge of by the Police for the purpose of safe custody.

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# ACT No. III of 1874.

*(Passed on the 24th February 1874).*

An Act to explain and amend the law relating to certain Married Women, and for other purposes.

Preamble.

Whereas it is expedient to make such provision as hereinafter appears for the enjoyment of wages and earnings by women married before the first day of January 1866, and for insurances on lives by persons married before or after that day :

And whereas by the Indian Succession Act, 1865, section four, it is enacted that no person shall by marriage acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property, which he or she could have done, if unmarried :

And whereas by force of the said Act all women to whose marriages it applies are absolute owners of all property vested in, or acquired by, them, and their husbands do not by their marriage acquire any interest in such property, but the said Act does not protect such husbands from liabilities on account of the debts of their wives contracted before marriage, and does not expressly provide for the enforcement of claims by or against such wives ;

It is hereby enacted as follows :—

## *I.—Preliminary.*

Short title.

1. This Act may be called "The Married Women's Property Act, 1874."

Extent and application.

2. It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty.

But nothing herein contained applies to any married woman who at the time of her marriage professed the Hindu, Muhammadan, Buddhist, Sikh or Jaina religion, or whose husband, at the time of such marriage, professed any of those religions.

And the Governor-General in Council may from time to time, by order, either retrospectively from the passing of this Act or prospectively, exempt from the operation of all or any of the provisions of this Act the members of any race, sect, or tribe, or part of a race, sect, or tribe, to whom he may consider it impossible or inexpedient to apply such provisions.

The Governor-General in Council may also revoke any such order, but not so that the revocation shall have any retrospective effect.

All orders and revocations under this section shall be published in the *Gazette of India.*

The fourth section of the said Indian Succession Act shall not apply, and shall be deemed never to have applied, to any marriage one or both of the parties to which professed at the time of the marriage the Hindu, Muhammadan, Buddhist, Sikh, or Jaina religion.

3. *Repealed by Act XII of* 1876.

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*II.—Married Women's Wages and Earnings.*

Married women's earnings to be their separate property.

4. The wages and earnings of any married woman, acquired or gained by her after the passing of this Act, in any employment, occupation, or trade carried on by her, and not by her husband,

and also any money or other property so acquired by her through the exercise of any literary, artistic, or scientific skill,

and all savings from and investments of such wages, earnings, and property,

shall be deemed to be her separate property, and her receipts alone shall be good discharges for such wages, earnings, and property.

*III.—Insurances by Wives and Husbands.*

Married woman may effect policy of insurance.

5. Any married woman may effect a policy of insurance on her own behalf and independently of her husband; and the same and all benefit thereof, if expressed on the face of it to be so effected, shall enure as her separate property, and the contract evidenced by such policy shall be as valid as if made with an unmarried woman.

Insurance by husband for benefit of wife.

6. A policy of insurance effected by any married man on his own life, and expressed on the face of it to be for the benefit of his wife, or of his wife and children, or any of them, shall enure and be deemed to be a trust for the benefit of his wife, or of his wife and children, or any of them, according to the interest so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband, or to his creditors, or form part of his estate.

When the sum secured by the policy becomes payable, it shall, unless special trustees are duly appointed to receive and hold the same, be paid to the Official Trustee of the Presidency in which the office at which the insurance was effected is situate, and shall be received and held by him upon the trusts expressed in the policy, or such of them as are then existing.

And in reference to such sum he shall stand in the same position in all respects as if he had been duly appointed trustee thereof by a High Court, under Act No. XVII of 1864 (*to constitute an Office of Official Trustee*), section ten.

Nothing herein contained shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of assurance which may have been effected with intent to defraud credtiors.

*IV.—Legal proceedings by and against Married women.*

Married women may take legal proceedings.

7. A married woman may maintain a suit in her own name for the recovery of property of any description which, by force of the said Indian Succession Act, 1865, or of this Act, is her separate property; and she shall have, in her own name, the same remedies, both civil and criminal, against all persons, for the protection and security of such property, as if she were unmarried, and she shall be liable to such suits, processes, and orders in respect of such property as she would be liable to if she were unmarried.

Wife's liability for post-nuptial debts.

8. If a married woman (whether married before or after the first day of January 1866) possesses separate property, and if any person enters into a contract with her with reference to such property, or on the faith that her obligation arising out of such contract will be satisfied out of her separate property,

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such person shall be entitled to sue her, and, to the extent of her separate property, to recover against her whatever he might have recovered in such suit had she been unmarried at the date of the contract and continued unmarried at the execution of the decree :

Provided that nothing herein contained shall affect the liability of a husband for debts contracted by his wife's agency, express or implied.

NOTE.—The proviso is as amended by Act VI of 1888.

*V.—Husband's liability for Wife's debts.*

Husband not liable for wife's ante-nuptial debts.

9. A husband married after the thirty-first day of December 1865 shall not, by reason only of such marriage, be liable to the debts of his wife contracted before marriage, but the wife shall be liable to be sued for, and shall, to the extent of her separate property, be liable to satisfy such debts as if she had continued unmarried :

Proviso.

Provided that nothing contained in this section shall affect any suit instituted before the passing of this Act, nor invalidate any contract into which a husband may, before the passing of this Act, have entered in consideration of his wife's ante-nuptial debts.

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## ACT No. IV of 1874.

(*Passed on the 24th February* 1874).

An Act to control recruiting in British India for the service of Foreign States.

Preamble.

Whereas it is expedient that the Governor-General in Council should exercise full control over recruiting in British India for the service of Foreign States ; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Foreign Recruiting Act, 1874":

Local extent.

It extends to the whole of British India.

Interpretation-clause.

2. In this Act—

"Foreign State."

"Foreign State" includes any person or persons exercising or assuming to exercise the powers of Government in or over any country, colony, province, or people beyond the limits of British India.

Power to prohibit or permit recruiting.

3. If any person is, within the limits of British India, obtaining or attempting to obtain recruits for the service of any Foreign State in any capacity, the Governor-General in Council may, by order in writing signed by a Secretary to the Government of India, either prohibit such person from so doing, or permit him to do so subject to any conditions which the Governor-General in Council thinks fit to impose.

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4. The Governor-General in Council may from time to time, by general order notified in the *Gazette of India*, either prohibit recruiting for the service of any Foreign State, or impose upon such recruiting any conditions which he thinks fit.

Power to impose conditions.

5. The Governor-General in Council may rescind or vary any order made under this Act in such manner as he thinks fit.

Power to rescind or vary orders.

6. Whoever, in violation of the prohibition of the Governor-General in Council, or of any condition subject to which permission to recruit may have been accorded,

Offences.

(*a*) induces or attempts to induce any person to accept or agree to accept or to proceed to any place with a view to obtaining any commission or employment in the service of any Foreign State, or

(*b*) knowingly aids in the engagement of any person so induced, by forwarding or conveying him or by advancing money or in any other way whatever,

shall be liable to imprisonment for a term which may extend to seven years, or to fine to such amount as the Court thinks fit, or to both.

7. Any offence against this Act may be enquired into and tried, as well in any district in which the person accused may be found, as in any district in which it might be enquired into and tried under the provisions of the Code of Criminal Procedure.

Place of trial.

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## ACT No. IX of 1874.

(*Passed on the 7th April* 1874).

An Act to consolidate and amend the law relating to European Vagrancy.

Whereas it is expedient to consolidate and amend the laws relating to persons of European extraction who wander in a destitute condition throughout India; It is hereby enacted as follows :—

Preamble.

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### PART I.

#### PRELIMINARY.

1. This Act may be called "The European Vagrancy Act, 1874 :"

Short title.

It extends to the whole of British India and to the dominions of Princes and States in India in alliance with Her Majesty ;

Local extent.

And it shall come into force at once : Provided that sections four to sixteen (both inclusive), nineteen, twenty, twenty-four and twenty-nine shall not come into force in Coorg, or in the Andaman and Nicobar Islands, or in any of the dominions of the Princes and States in India in alliance with Her Majesty not situ-

Commencement.

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ate within the limits of any Presidency, Lieutenant-Governorship, or Chief Commissionership in British India, until such day or respective days as the Governor-General in Council from time to time, by notification in the *Gazette of India*, appoints in this behalf.

Repeal of Acts.

2. Acts No. XXI of 1869 (*to provide against European Vagrancy*) and No. XXVIII of 1871 (*to amend the European Vagrancy Act*, 1869) are hereby repealed.

But all appointments and orders made, work-houses provided, certificates given, powers conferred, rules prescribed, and exemptions granted under the former Act, shall be deemed to have been respectively made provided, given, conferred, prescribed, and granted under this Act.

Interpretation-clause.

3. In this Act—

"Person of European extraction."

"Person of European extraction" includes—

(*a*) persons born in Europe, America, the West Indies, Australia, Tasmania, New Zealand, Natal, or the Cape Colony,

(*b*) the sons and grandsons of such persons,

but does not include persons commonly called Eurasians or East Indians :

"Vagrant."

"Vagrant" means a person of European extraction found asking for alms, or wandering about without any employment or visible means of subsistence :

"Master of a ship."

"Master of a ship" includes any person in charge of a decked vessel :

"Magistrate."

And in Parts III and V of this Act "Magistrate" means, within the limits of the towns of Calcutta, Madras, and Bombay, a Magistrate of Police, and, outside those limits, a person exercising powers under the Code of Criminal Procedure not less than those of a Magistrate of the second class.

## PART II.

### PROCEDURE.

Power to require apparent vagrant to go before Magistrate.

4. Any Police officer may, within the limits of the towns of Calcutta, Madras and Bombay, require any person who is apparently a vagrant to accompany him or any other Police officer to, and to appear before, the nearest Magistrate of Police, and may, without those limits, require any such person to accompany him or any other Police officer to, and to appear before, the nearest Justice of the Peace exercising the powers of a Magistrate of the first class under the Code of Criminal Procedure.

Summary inquiry into vagrant's circumstances.

Declaration of vagrancy.

5. The Magistrate of Police or Justice shall in such case, or in any other case where a person apparently a vagrant comes before him, make a summary inquiry into the circumstances and character of the apparent vagrant; and if he is satisfied that such person is a vagrant, he shall record in his office a declaration to that effect.

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Order to go to work-house.

If he is further of opinion that the vagrant is not likely to obtain employment at once, or if he has reason to believe that a declaration of vagrancy has on any former occasion been recorded in respect of such vagrant, he shall require the vagrant to go to a Government work-house, and shall draw up an order to that effect.

The vagrant shall then be placed in charge of the Police for the purpose of being forwarded to the work-house, and the said order shall be a sufficient authority to the Police for retaining him in their charge while he is on his way to the work-house, and to the Governor of the work-house for receiving and detaining such vagrant.

Forwarding vagrant to place of employment.

6. Where the officer making the inquiry mentioned in section five is of opinion that the vagrant is likely to obtain employment in any place subject to the Local Government, or (when the vagrant is in any part of the dominions mentioned in section one) in any place subject to any adjacent Local Government, such officer may in his discretion forward the vagrant to such place in charge of the Police, and draw up an order to that effect.

Such order shall be a sufficient authority to the Police for retaining the vagrant in their charge while he is on his way to such place of employment.

Assistance to obtain employment.

7. Upon his arrival at the place of employment, the vagrant shall be taken before the nearest Magistrate of Police or Justice of the Peace exercising powers as aforesaid, to whom the order for transmission shall be delivered.

Such officer shall thereupon, to the best of his ability, assist the vagrant in seeking employment, and may in the meantime, if he think fit, keep the vagrant in the charge of the Police.

Should the vagrant fail to obtain suitable employment within a reasonable time not exceeding fifteen days from such arrival, such officer shall forward him to a Government work-house in the manner provided by section five.

Subsistence allowance.

8. Every person while in charge of the Police, whether before inquiry as to his vagrancy, or while he is on his way, under section five, to the work-house, or, under section six, to a place of employment, shall be entitled to an allowance for his subsistence at the rate of eight annas per diem.

The Magistrate of Police or Justice, before whom any vagrant is taken under section seven, may, if he think fit, order the vagrant to receive a similar allowance while he is seeking employment.

The Local Government shall cause such allowance to be paid out of such funds at its disposal and in such manner as it may, from time to time direct.

NOTE.—The cost of allowances paid to European vagrants under this section should be charged, until further orders, to judicial contingencies.—(*Punjab Government Circular No.* 15—1,405 *dated 4th October* 1869).

See also Note (*a*), Rule IV, printed at the end of the Act.

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Power to give certificates.

9. Any Magistrate of Police or Justice of the Peace exercising powers as aforesaid may, on being satisfied that any person of European extraction is not likely to become a vagrant, give such person a certificate under his hand stating that for a certain time (mentioning it) not exceeding six months from the date of the certificate, and within certain limits (mentioning them), nothing in sections four, five, six and seven shall apply to the holder of such certificate; and thereupon, so long as the certificate remains in force, nothing in sections four, five, six and seven, shall apply to such person within such limits as aforesaid.

Form of certificate.

Every such certificate shall be in the form set forth in the first schedule to this Act annexed, or as near thereto as circumstances will admit.

NOTE.—See Note (*a*), Rule V, at the end of the Act.

Power to invest certain officials with jurisdiction of Justices under sections 5, 7, 8 and 9.

10. The Local Government may, from time to time, by notification in the official Gazette, invest any Justice of the Peace, District Superintendent of Police, or Assistant District Superintendent of Police with the jurisdiction and powers conferred by this Part on a Justice of the Peace exercising powers as aforesaid.

NOTES.—(*a*). The Lieutenant-Governor has, under the provisions of this section, vested certain Police Officers with the jurisdiction and powers conferred by Part II on a Justice of the Peace exercising full powers.—(*Notification No.* 54, *dated* 11*th January* 1870—*Punjab Gazette of* 13*th idem, p.* 16).

(*b*). It was subsequently notified that the said powers would come into force only from such date as the Governor-General in Council should extend the said Part II to the Punjab and its dependencies in the manner provided in section 2.—(*Notification No.* 135, *dated* 27*th January* 1870—*Punjab Gazette of* 3*rd February* 1870, *p.* 72).

(*c*). In the exercise of the power vested in him by the last Clause of Section 2 of the European Vagrancy Act, 1869, his Excellency the Governor-General in Council is pleased to extend Sections 4 to 16 (both inclusive) 19, 20, 24, and 29 of the Act to the Punjab, as well as to the dominions of the Princes and States in alliance with Her Majesty, situated within the limits of that Province, with effect from the date of the republication of this Notification in the local *Gazette* of the Government of the Punjab.—(*Government of India Notification No.* 900, *dated* 22*nd February* 1872—*Punjab Gazette of* 29*th idem, p.* 274).

(*d*). The above Notifications were issued under Act XXI of 1869, Section 2 of which provided that only certain portions of the Act were to extend to the whole of British India and the rest of the Act was to come into operation from such date as it was extended by notification of the Governor-General in Council. Under Section 1, Act IX of 1874 extends to the whole of British India from the date on which it was passed.

## PART III.

### GOVERNMENT WORK-HOUSES.

Provision of Government work-houses.

11. The Local Government, with the previous sanction of the Governor-General in Council, may provide work-houses with their necessary furniture and establishment, at such places as it may think proper, for the temporary reception of vagrants,

or may, by writing under the hand of a Secretary to such Government, certify any building, or part of a building not provided as a work-house under the former part of this section, to be fit for a work-house for the purposes of this Act. Every such certificate shall be published in the local official Gazette, and thereupon such building or part of a building

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shall, until the Local Government otherwise orders, be deemed a Government work-house under this Act.

NOTE.—The Lieutenant-Governor has, with the sanction of the Governor-General in Council, declared the European Debtors' Prison at Lahore a workhouse for the purposes of this Act.

The work-house is to be under the general control of the Deputy Commissioner of Lahore. —(*Notification No. 772, dated 6th March 1872—Punjab Gazette of 7th idem, p. 294*).

Scale of diet.

The Local Government shall allow the same scale of diet for the support of vagrants received in such work-houses as is for the time being allowed for Europeans confined in the local prisons or penitentaries.

Superintendence of work-houses.

12. Every such work-house shall be under the immediate charge of a Governor, who shall be appointed, and may be suspended or removed, by the Local Government.

Every such Governor shall , if the Local Government thinks fit, be subject to the orders of a Committee of Management appointed from time to time by such Government, or, in the absence of a Committee, to the orders of such officer as the Local Government from time to time, appoints in this behalf.

Search of vagrants.

13. Every such Governor may order that any vagrant admitted to the work-house under his charge shall be searched, and that the vagrant's bundles, packages, and other effects shall be inspected, and may direct that any money then found with or on the vagrant shall be applied (subject to the orders of the Local Government) towards the expense of carrying this Act into execution, and may order that all or any of the said effects shall be sold, and that the produce of the sale be applied as aforesaid, but subject to the like orders.

Discipline.

14. Vagrants admitted to work-houses under this Act shall be subject to such rules of management and discipline as may, from time to time, be prescribed by the Local Government with the previous sanction of the Governor-General in Council.

The Local Government may authorise any Governor of a work-house to punish (under or not under the supervision and direction of a Committee of Management, as the Local Government thinks fit) any vagrant who knowingly disobeys or neglects any such rule with any one of the following punishments (namely)—

(*a*) solitary confinement within the work-house for any time not exceeding seven days;

(*b*) solitary confinement within the work-house for any time not exceeding three days upon a diet reduced to such extent as the Local Government may prescribe ;

(*c*) hard labour for any time not exceeding seven days ;

(*d*) reduction of diet to such extent as the Local Government may prescribe for any time not exceeding five days ;

or in lieu of any such punishment any such vagrant may, on conviction before a Magistrate of such disobedience or neglect, be punishable with rigorous imprisonment in jail for a term which may extend to three months.

NOTE.—See Rule1 printed at the end of the Act, Note (*c*).

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15. The Governor and the Committee of Management (if any) of every such work-house shall use his and their best endeavours to obtain outside the work-house suitable employment for the vagrants admitted thereto.

Refusal to accept employment.

When such employment is obtained, any such vagrant refusing or neglecting to avail himself thereof, shall, on conviction before a Magistrate, be punishable with rigorous imprisonment for a term which may extend to one month.

## PART IV.

### Removal from India.

16. If after the lapse of a reasonable time no suitable employment is obtainable for any such vagrant, the Local Government may either (when he has entered into such agreement as hereinafter mentioned) cause him to be removed from British India in manner hereinafter provided, the cost of such removal being paid by Government;

Removal of vagrants. Cost of removal.

or it may cause sections twenty-three and thirty to be read to him, and may then release him.

Notes.—(*a*).—Deputy Commissioners are authorized to exercise the powers described in this section (*vide* note, section 27).

(*b*).—See Note (*a*), Rule VII, at the end of the Act.

17. Any vagrant or other person of European extraction may enter into an agreement in writing with the Secretary of State for India in Council, binding himself—

Agreements with vagrants.

(*a*) to proceed to such port in British India as shall be mentioned in the agreement;

(*b*) there to embark on board such ship and at such time as is directed by an officer appointed in this behalf by the Local Government of the territories in which such port is situate, for the purpose of being removed from India at the expense of the said Secretary of State in Council;

(*c*) to remain on board such ship until she has arrived at her port of destination; and

(*d*) not to return to India until five years have elapsed from the date of such embarkation.

Every such agreement shall be in the form set forth in the second schedule to this Act annexed, or as near thereto as circumstances admit.

Form of agreement.

Note.—See Note (*a*), Rules VIII, IX, and X, at the end of the Act.

18. The Local Government of the territories in which the said port is situate, may enter into such contracts for conveyance or otherwise, and perform such other acts as may be necessary to carry out such agreement on the part of the said Secretary of State in Council.

Power to perform agreement.

## PART V.

### Penalties.

19. Any person refusing or failing to accompany a Police officer to, or to appear before, a Magistrate of Police or Justice of the Peace, for the purpose of preliminary inquiry, when required so to do under section four, may be

Refusal to go before Magistrate.

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arrested without warrant, and shall be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with imprisonment for a term which may extend to one month, or with fine, or with both.

Assaulting Police.

And any person who, when required under section four to accompany a Police officer to, or to appear before, a Magistrate of Police or Justice of the Peace, commits an offence punishable under section three hundred and fifty-three of the Indian Penal Code, may, whether he be or be not an European British subject, be tried by a Magistrate for such offence.

Escaping from Police.

20. Any vagrant who escapes from the Police while committed to their charge under the orders specified in sections five and six,

Quitting work-house without leave.

or who leaves a work-house, under this Act, without permission from the Governor,

NOTE.—See Rule 1 Note (c), at the end of the Act.

Failing to return to work-house.

or who having with such permission left a work-house for a limited time or a specified purpose, fails to return on the expiration of such time or when such purpose has been accomplished or proves to be impracticable,

shall for every such offence be punishable, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.

Failing to proceed to port of embarkation.

21. Any person entering into an agreement under section seventeen, and failing to proceed in pursuance thereof to the port therein mentioned,

Refusing to go on board ship.

or refusing to embark when directed so to do under the same section,

Escaping from ship.

or escaping from the ship in which he has so embarked before she has reached her port of destination,

shall for every such offence be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to six months.

Returning to India.

22. Any person returning to India within five years of the date of his embarkation pursuant to any agreement entered into under section seventeen, unless specially permitted so to do by the Secretary of State for India, shall, for every such offence, be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.

Begging.

23. Any person of European extraction found asking for alms when he has sufficient means of subsistence,

or asking for alms in a threatening or insolent manner,

or continuing to ask for alms of any person after he has been required to desist,

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shall be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term not exceeding one month for the first offence, two months for the second, and three months for any subsequent offence.

Procedure on close of imprisonment.

**24.** Every person imprisoned under section nineteen, twenty, twenty-one, twenty-two, or twenty-three, shall, at the end of his term of imprisonment, be placed before the nearest Magistrate of Police or Justice of the Peace exercising powers as aforesaid, who shall, if he think fit, forthwith deal with him in the manner prescribed by sections five and six.

The order of transmission shall certify the fact of the previous conviction.

Penalty on shipmaster bringing European convict to India.

**25.** Every master of a ship landing or allowing to land in any part of British India any person of European extraction who has been convicted in any other part of Her Majesty's dominions of felony, or of an offence which, if committed in England, would be felony, shall, on conviction before a Magistrate, be liable, for every such person so landed or allowed to land, to pay a fine not exceeding five hundred rupees and not less than one hundred rupees, and in default of payment, to imprisonment for any term not exceeding two months,

unless the defendant satisfy the Magistrate by evidence (which the defendant is hereby declared competent to give), that he had made due enquiry as to the person so landed, or allowed to land, and that he had no reason to believe that such person had been convicted as aforesaid.

Power to exempt certain shipmasters.

The Governor-General in Council may from time to time, by notification in the *Gazette of India*, exempt from the operation of the former part of this section the master of any class of ships, on such terms as to the Governor-General in Council seem fit, and either in respect of all or of any of the persons on board such ships.

The Governor General in Council may in like manner revoke any exemption made under this section.

NOTE.—In exercise of the power vested in him by section 25, the Governor-General in Council has exempted masters of steam or sailing vessels belonging to companies or registered owners from the operation of the first part of that section, in respect of first class passengers on board such vessels.—(*No.* 4,830 *dated* 20*th October* 1870—*Gazette of India of* 22*nd idem, p.* 723).

Recovery of fines.

**26.** All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

Payment of fines.

All fines recovered under this Act shall be paid to the credit of the Government of India, or as the Governor-General in Council from time to time directs.

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Prosecutions.

27. All prosecutions under this Act may be instituted and conducted by such officer as the Local Government from time to time appoints in this behalf.

NOTE.—With reference to Section 27, His Honor is pleased to authorize District Superintendents of Police and Assistant District Superintendents of Police to institute and conduct prosecutions under the Act; and all Deputy Commissioners are authorized to exercise the powers described in Section 16.—(*Circular No.* 15—1405, *dated 4th October* 1869, *from Secretary to Government, Punjab, to all Commissioners and District Officers*).

See also Note (*c*), Rule 1, at the end of the Act.

Limits of jurisdiction.

28. In imposing penalties under this Part and Part III of this Act, no person shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure in the case of offenders not being European British subjects.

Validity of proceedings where Magistrate is not the nearest.

29. No proceeding under this Act shall be deemed invalid by reason only that the Magistrate of Police or Justice, before whom a person, apparently a vagrant, was required to appear, or before whom a person was placed under section twenty-four, was not the nearest.

## PART VI.

### MISCELLANEOUS.

Deprivation of privileges of European British subjects under Criminal Procedure Code.

30. Any European British subject who, upon the summary enquiry mentioned in section five, has been determined to be a vagrant, or who has been convicted under section twenty-two or section twenty-three, shall, so long as he remains in India, be subject, beyond the limits of the said towns, to the provisions of the Code of Criminal Procedure (other than those contained in Chapter XXXVIII of the same Code) applicable to an European not being a British subject.

If from any cause he is committed or held to bail by a Justice of the Peace to take his trial before a High Court, he shall not be at liberty to object to the jurisdiction of such Justice of the Peace or High Court on the ground of any thing contained in the former part of this section.

Save as aforesaid nothing herein contained shall be deemed to confer jurisdiction over European British subjects on Magistrates, who, if this Act had not been passed, would have had no such jurisdiction.

Liability of importers of Europeans or employers of soldiers becoming vagrants.

31. Whenever any person of European extraction lands in India, or, being a non-commissioned officer or soldier in Her Majesty's Army, leaves that Army in India, under an engagement to serve any other person, or any Company, Association, or body of persons in any capacity,

and whenever a sailor of European extraction, not being a British subject, is discharged from his ship in any British Indian port,

and becomes chargeable to the State as a vagrant within one year after his arrival in India or leaving the Army, or discharge from his ship, as the case may be, then the person, or Company, Association, or body, to serve whom he has so landed in India or left the Army, or, in the case of a sailor, the person who is at the date of the discharge the owner or agent of the ship from which the sailor has been so discharged, shall be liable to pay to the Government the cost of his removal under this Act, and all other charges incurred by the State in consequence of his becoming a vagrant.

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Such costs and charges shall be recoverable by suit as if an express agreement to repay them had been entered into with the Secretary of State for India in Council, by the person, Company, Association, body, owner, or agent chargeable.

Recovery of charges.

**32.** When any person of European extraction lands in India, being or having been during his passage to India, or from one Indian port to another, in charge of, or in attendance upon, any animal, and becomes chargeable to the State as a vagrant within one year after his arrival in India, then

Liability of consignee in case of Europeans who arrive in charge of animals and become vagrants.

the consignee of such animal,

or the agents in India for the sale of such animal,

or, if such consignee or agents cannot be found,

the agent to whom the ship in which such animal arrived in India was consigned,

shall be liable to pay to the Government the cost of such person's removal under this Act, and all other charges incurred by the State in consequence of his becoming a vagrant.

Any such consignee or agent shall be entitled to charge the consignor or principal for any payment to the Government under this section.

For the purposes of this section 'consignee' includes any person who undertakes to dispose of such animal for the benefit of the consignor, and

'Consignee' defined.

'Agent' includes any person who undertakes the agency of such ship, though it may not have been consigned to him.

'Agent' defined.

**33.** In any proceeding under this Part, a certified copy of the declaration recorded under section five shall be *primâ facie* evidence that the European British subject named therein has been, upon the summary enquiry mentioned in that section, determined to be and that he was at the date of the declaration a vagrant.

Evidence of declaration under Section 5.

**34.** The powers and duties conferred and imposed by sections sixteen and eighteen on a Local Government, may be exercised and performed by such class of officers as the Local Government from time to time, by notification in the official Gazette, appoints in this behalf.

Exercise of powers conferred on Local Government.

NOTE.—*Vide* note, Section 16.

**35.** The powers and duties conferred and imposed by this Act on Magistrates, Justices of the Peace exercising the powers of a Magistrate of the first class, and Police Officers respectively, may, in places beyond the limits of British India, be exercised and performed by such persons respectively as the Governor-General in Council from time to time, by notification in the *Gazette of India*, appoints in this behalf.

Exercise in Native States of powers conferred on Magistrates, Justices, and Police.

**36.** The Governor-General in Council may from time to time make rules, consistent with this Act, for the guidance of officers in matters connected with its enforcement.

Power to make rules for guidance of officers.

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.

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## THE FIRST SCHEDULE.

(*See Section* 9).

Whereas *E. F.*, of ,a person of European extraction and holder of this certificate has appeared before me and satisfied me that he is not likely to become a vagrant within the meaning of the European Vagrancy Act, 1874, these are to certify that for the space of months from the date hereof and within the Province [*or* District] of nothing in sections four, five, six, and seven of the same Act shall be deemed to apply to him, unless he is found asking for alms, in which case this certificate shall be void.

(Signed) *G. H.*

Dated this day of 18 .

Magistrate of Police for the Town of *or* Justice of the Peace for exercising the powers of a Magistrate of the class.

## THE SECOND SCHEDULE.

(*See Section* 17).

Articles of Agreement made this day of 18 between the Secretary of State for India in Council of the one part and *C. D.* of, &c., [*the vagrant*] of the other part; Each of the parties hereto (so far as relates to the acts on his own part to be performed) hereby agrees with the other of them as follows:—

1. The said *C. D.* shall proceed forthwith to the port of [*the port of embarkation*].

2. The said *C. D.* shall there embark on board such ship and at such time as an officer appointed in this behalf by the Local Government shall direct.

3. The said *C. D.* shall remain on board such ship until she shall have arrived at her port of destination.

4. The said *C. D.* shall not return to India until five years shall have elapsed from the date of such embarkation, unless specially permitted so to return by the said Secretary of State.

5. The said Secretary of State in Council shall defray the cost of the transit of the said *C. D.* to the said port, and of his lodging and subsistence during such transit and during his detention (if any) at the same port, and shall contract with the owner of the said ship, or his agent, for the passage of the said *C. D.* on board the said ship, and for his subsistence during the voyage for which he shall embark as aforesaid.

In witness whereof *A. B.* (by order of the Governor-General of India in Council [*or*, the Governor of in Council *or* the Lieutenant-Governor of ,*or* the Chief Commissioner of ], on behalf of the said Secretary of State in Council), and the said *C. D.* have hereunto set their hands the day and year first above written.

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NOTES.—(*a*). In the exercise of the power vested in him by Section 34 * of Act XXI of 1869 (an Act to provide against European Vagrancy), His Excellency the Governor-General in Council is pleased to make the following Rules for the guidance of Officers in the administration of the Act :—

I.—The expression "person of European extraction" includes, for the purposes of the Act and these Rules, (1) persons born in Europe, America, the West Indies, Australia, and New Zealand; and (2) the legitimate son of a father and grandson of a grandfather so born.

II.—For the arrest and custody of vagrants, European or Eurasian Police Officers shall whenever it may be practicable, be employed in preference to Native Police Officers.

III.—Whenever any person, apparently a vagrant, refuses or fails to comply with any requisition made by a Police Officer under Section 4 of the Act,

whenever any person of European extraction commits an offence under Section 23 of the Act in view of a Police Officer,

and whenever any Police Officer has reason to think that such offence has been, or is being, committed,

the person so refusing, failing, or offending, may be forthwith arrested, without warrant, by the Police Officer, for the purpose of being produced in the usual manner before the Officer empowered to deal with the case.

IV.—The "subsistence allowance" of the vagrant shall not ordinarily be made over to him, but shall be kept and disbursed on his account by the Police or other Officer in whose custody he is for the time being.

V.—No certificate shall be given under Section 9, unless there be good ground for believing that the person applying for it is *bonâ fide* in search of employment, has a fair chance of obtaining it, and is of quiet and orderly behaviour.

* Section 36 of Act IX of 1874.

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VI.—The certificates shall be printed on parchment or paper of very durable character and shall be in English, with translations in the two principal Vernacular languages of the territories under the Local Government.

VII.—The time allowed under Section 16 for search after employment, shall not ordinarily exceed two months, and shall not in any case exceed six months.

VIII.—In the Presidency Towns, the Commissioner of Police, and elsewhere, Magistrates with full powers, being also Justices of the Peace, shall be competent to act on behalf of the Secretary of State in Council in making agreements under Section 17.*

IX.—All such agreements shall be executed in duplicate, and the Officer executing on behalf of the Secretary of State in Council shall retain one of the copies.

X.—When an agreement has been entered into by a vagrant under Section 17, he shall be forwarded, along with the original agreement, in the charge of a Police Officer to the Officer at the port of embarkation who is empowered by the Local Government to receive vagrants; and thereafter, and until his embarkation, he shall remain in the custody of that Officer, or of such other officer as the Local Government empowers in this behalf.

He shall during such time be entitled to subsistence-allowance at eight annas per diem to be disbursed as directed in Rule IV.

XI.—Local Governments within whose jurisdiction ports are situated shall make all necessary arrangements for the reception and custody of vagrants sent for deportation by other Local Governments or authorities in the interior. They will from time to time, as may be necessary, give notice of such arrangements to the forwarding authorities.

XII.—Road expenses shall be provided by the forwarding authority. All future expenses incurred in proceedings under Chapter IV of the Act, shall be defrayed by the Local Government of the port of embarkation on account of the Secretary of State in Council.

XIII.—No agreement for deportation shall be entered into with any person of European extraction born in this country, and who has never been out of it, unless he satisfies the Local Government that he is likely to gain a livelihood in some place out of India.

XIV.—The Officers empowered to direct the deportation of vagrants will see that no unnecessary time is lost for providing passage for those who have entered into agreements to be deported. As a rule Europeans should be sent to Europe, Americans to America, West Indians to the West Indies, Australians to Australia, and New Zealanders to New Zealand. But the local authorities will exercise their discretion in sending vagrants to other countries than their own, when it appears that such a course will be for their advantage, and that they will be favourably received on arriving at their destination.

XV.—Descriptive rolls, and, as far as possible, photographs of all persons deported shall be kept by the Local Governments or Administrations within whose territory the ports are situated.—(*Notification No.* 4828, *dated* 20*th October* 1870—*Gazette of India of* 22*nd idem, p.* 721, *and Punjab Gazette of* 3*rd November* 1870).

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(*b*). Referring to the complaint made by the Select Vestry of Liverpool, the Loca Government Board in London, in their letter dated the 13th August 1872, to Her Majesty's Under Secretary of State for India, suggested that the provisions of the Indian law should be altered so "as to enable foreigners to be sent from India to their own countries instead of to Great Britain, or that they should be otherwise provided with the means of reaching them." Her Majesty's Secretary of State for India directs the attention of the Government of India to this suggestion.

2. The Governor-General in Council observes that the European Vagrancy Act (No. XXI of 1869) * imposes no restriction whatever as to the place to which a vagrant may be deported. It merely provides for his removal from British India, and for his entering, with that view, into an agreement (1) to embark on board the appointed ship, and (2) to remain on board until the vessel shall have arrived at her port of destination. But the rules which were passed on the 20th October 1870, under Section 34 of the Act, for the guidance of officers in matters connected with the enforcement of the law, lay down a principle for general guidance in respect to the place to which vagrants may be deported. The 14th of these rules prescribes as follows; "As a rule Europeans should be sent to Europe, Americans to America, West Indians to the West Indies, Australians to Australia, New Zealanders to New Zealand. But the local authorities will exercise their discretion in sending vagrants to other countries than their own, when it appears that such a course will be for their advantage, and that they will be favorably received on arriving at their destination."

* See Part IV, Sections 16 to 18.

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* The Lieutenant-Governor has directed that officers who are empowered under Rule VIII to act on behalf of the Secretary of State in taking agreements from vagrants, shall report each case, through the proper channel, for the sanction of the Local Government, previous to the agreements being finally concluded.—(*Notification No.* 1009, *dated* 26*th March* 1872—*Punjab Gazette of* 28*th idem*).

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3. Under the spirit of the above rules vagrants should ordinarily be sent to their own countries, though a discretion is left to local departments to depart from the rule under certain specified conditions. With reference to the exercise of this discretion, the Governor-General in Council desires to bring to the notice of the Local Governments and Administrations that several instances have occurred in which the authorities of the place to which vagrants have been deported have objected to such deportation. His Excellency in Council would, therefore, call special attention to the necessity of adhering to the principle of Rule XIV, *i.e.*, to send vagrants to their own countries only, except in cases in which the Local Government or Administration is fully satisfied that the conditions specified in the latter part of the rule are fulfilled by the circumstances of the case.—(*Resolution of the Government of India No.* 4630, *dated* 13*th December* 1872—*Punjab Government Circular No.* 1—2 *of* 2*nd January* 1873).

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(*c*).—The following rules for the guidance of officers, and for the management and discipline of vagrants, issued with the sanction of the Governor-General of India in Council, under Sections 14 and 34 of Act XXI of 1869, are published :—

## CHAPTER I.

### General Management.

1. Prosecutions of vagrants under Section 14 and the second clause of Section 20 of the Act shall not be instituted without the sanction of the Deputy Commissioner.

## CHAPTER II.

### The Governor of the Workhouse.

2. The Superintendent of the Central Jail shall be the Governor of the workhouse.

3. The Governor of the workhouse shall make himself acquainted with the provisions of Act XXI of 1869, so far as they relate to the duties of his office.

4. He shall be responsible for the due observance of these and all other rules which shall be issued from time to time with the sanction of Government, under Section 14 of the Act.

5. He shall refer to the Deputy Commissioner all matters in which he requires further instructions, and shall obey all orders he may receive from him in regard to matters connected with the government of the workhouse, not distinctly provided for in these rules.

6. He shall have power to suspend any subordinate for misconduct, pending the orders of the Deputy Commissioner.

7. He shall keep such books as are required to be kept by these rules, or by any additional rules issued under the same authority.

8. He shall prepare and submit such reports and returns as may be required by the Deputy Commissioner.

## CHAPTER III.

### General Rules for Officers and Servants.

9. No officer or servant on the establishment shall strike any inmate of the institution except in self-defence.

10. No such officer or servant shall sell to, or purchase from, the inmates of the workhouse any article whatsoever.

11. The introduction into the workhouse of tobacco, liquor, or any other article of luxury, is strictly prohibited.

12. All correspondence or intercourse between officers and servants of the workhouse and friends or relatives of inmates is also forbidden, unless specially authorized by the Deputy Commissioner.

## CHAPTER IV.

### Discipline and Diet.

13. Every vagrant on admittance into the workhouse shall have his hair cut, be required to bathe, and receive a suit of workhouse clothing. It will be for the Deputy Commissioner to decide, under Section 13 of the Act, if the vagrant's clothing and other effects shall be sold, and the sale proceeds, together with any money found on him, applied to payment of the general expenses of the institution.

14. On the morning after admission, each vagrant shall be examined by the Governor, and if pronounced capable of hard labor, shall be put to such work as the Governor may be able to provide for him.

15. Tasks shall be assigned, and each inmate shall be required to perform the allotted task before he is allowed to partake of the meals provided.

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16. There shall be three meals a day throughout the year :—

BREAKFAST—

In summer at 8 A. M,

,, winter at 9 A. M.

DINNER—

Throughout the year at 1 P. M.

TEA—

In summer at 6 P. M.

,, winter at 5 P. M.

17. The scale of diet shall be as follows :—

| Class of Vagrants. | Meat. | Bread. | Vegetables. | Butter. | Salt. | Condiment. | Sugar. | Tea. | Milk. | Wood. |
|---|---|---|---|---|---|---|---|---|---|---|
| | oz. | oz. | oz. | oz. | oz. | oz. | oz. | oz. | oz. | lbs. |
| Laboring ... ... | 16 | 16 | 16 | 1 | ½ | ½ | 1 | ½ | 4 | 4 |
| Unlaboring ... ,, .. | 12 | 12 | 12 | ½ | ½ | ¼ | 1 | ½ | 4 | 4 |

Mutton to be given three times, and beef four times a week. As this scale is fixed by the Act, it may not be departed from except in the case of sickness, and then only by the order of the Governor.

18. The proportion in which the above rations shall be given at each meal shall be determined by the Governor in consultation with the Deputy Commissioner.

19. The Governor shall issue directions as regards clothing, diet, and bedding of the sick inmates, and such inmates shall not be put to work unless certified by the Governor as fit to labor.

20. Each inmate of the workhouse shall rise and wash during the summer months at 5 A. M. and during the winter months at 7 A. M. Lights will be provided from dusk till 9 P. M. when the inmates will be required to retire to rest.

21. Vagrants refusing to work when required to do so, or being otherwise refractory, may, at the discretion of the Governor, be locked up in rooms provided for the purpose, and remain locked up until the complaints made against them have been enquired into by the Deputy Commissioner.

22. The inmates of the workhouse shall not be put to labor on Sundays, and they shall attend Divine Service at such times as the Ministers of their respective religions shall appoint with the sanction of the Deputy Commissioner.

23. A copy of these rules, together with copies of Sections 14 and 15 of the Act, shall be hung up in every ward and cell in the workhouse.

## CHAPTER V.

### GENERAL RULES.

24. The gates of the workhouse shall be locked at sun-set, and shall remain so locked till sun-rise.

25. No vagrant shall be allowed to leave the house except in search of work, and then only with the sanction of the Deputy Commissioner.

26. Strangers shall not be permitted to visit the workhouse and hold conversation with any of the inmates at any time without the permission of the Governor. But relatives of any inmate suffering from sickness may be allowed to visit him at any time with the permission of the Governor.

27. If a death from any cause occurs among the inmates, the Governor of the workhouse shall give notice thereof to the Magistrate of the District, and shall also at once inform the relatives of the deceased, if any such are to be found, and such relatives shall be allowed to carry away the corpse ; otherwise the Governor shall make arrangements for the decent interment of the deceased.

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28. The Governor of the workhouse shall use his best endeavours to obtain, outside the workhouse, suitable employment for the vagrants admitted thereto as required by Section 15 of the Act, and, whenever such employment is found, shall report the fact for the information of the Deputy Commissioner.

29. In the event of his failing to obtain employment for any of the inmates within two months of their admission to the workhouse, he shall report the fact to the Deputy Commissioner, in order that action may be taken under Section 16 of the Act.

CHAPTER VI.

BOOKS AND ACCOUNTS.

30. The following books shall be kept by the Governor :—

I. Cash Book, showing all receipts and disbursements, including receipts from Government, private subscriptions and moneys taken from vagrants under Section 13 of the Act.

II. Register of admissions.

III. Register of discharges.

IV. Governor's Journal, in which shall be recorded all matters of importance relating to the health, conduct, and employment of the inmates ; also remarks on the conduct of all subordinate officials.

V. Minute book for visitors and other inspecting officials.

VI. Manufactory book.

VII. File book of orders for detention of vagrant.

VIII. Inventory of property of vagrant.

IX. File book of receipts.

31. All money received by the Governor shall be deposited by him in the Government Treasury, whence payments shall be made on cheques signed by the Governor and countersigned by the Deputy Commissioner.

32. The Governor shall be allowed a permanent advance for current expenses.—(*Notification No.* 773, *dated* 6*th March* 1872—*Punjab Gazette of* 7*th idem, p.* 294).

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(*d*). Forms for reporting the operation of the European Vagrancy Act have been prescribed by the Government of India. The returns should be submitted annually by Deputy Commissioners on the 5th January.—(*Police Circular No.* 9 *of* 1875).

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## ACT No. XIII of 1874.

(*Passed on the* 8*th December* 1874).

An Act to provide in the Punjab and elsewhere for the guardianship of European British Minors.

Preamble.

Whereas it is expedient to provide in the Punjab, Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Mairwara, and Assam for the guardianship of minors who either are born in the United Kingdom or any British colony, or are the children or grandchildren of persons so born ; It is hereby enacted as follows :—

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### PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The European British Minors Act, 1874 :"

Local extent.

It extends to the territories respectively subject to the government of the Lieutenant-Governor of the Punjab and to the administration of the Chief Commissioners of Oudh, the Central Provinces, British Burma, Coorg, Ajmer and Mairwara, and Assam ;

Personal application.

So far as relates to minors, it applies only to persons born in the United Kingdom of Great Britain and Ireland, or any British colony, plantation, or settlement other than

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British India, and to their children and grandchildren ;

Commencement.

And it shall come into force at once.

Interpretation clause.

2. In this Act—

'Minor.'

'Minor' means a person who has not completed the age of eighteen years ;

'Guardian.'

'Guardian' means a person who is appointed to take care of a minor's person or property, or both ; and

'Court.'

'Court' means the highest Civil Court of appeal in any territory (other than British Burma) to which this Act extends.

In British Burma 'Court' means, in the town of Rangoon, the Court of the Recorder of Rangoon, and, elsewhere, the Court of the Deputy Commissioner.

## PART II.

### Appointment of Guardians.

Appointment by parent.

3. A guardian of the person or property, or both, of any minor may be appointed by will or other instrument to take effect upon the death of the parent appointing—

(*a*) if the minor is legitimate, by the father, or by either parent if the other is dead or incapable of acting;

(*b*) if the minor is illegitimate, by the mother.

Appointment by Court.

4. If the Court within the local limits of whose jurisdiction any minor resides finds that the guardianship of his person or property has not been sufficiently provided for under section three, the Court may appoint a gaurdian of his person or property, or both, as the case may be.

If the minor has several properties, the Court may, if it think fit, appoint a guardian for each such property.

If the Court appoints a guardian for any property situate beyond the local limits of its jurisdiction, the Court within the local limits of whose jurisdiction such property may be situate shall accept such guardian as duly appointed and give effect to the order appointing him.

Application for appointment.

5. Whoever desires to be appointed the guardian of a minor's person or property, or both, may apply to the Court within the local limits of whose jurisdiction the minor resides by petition setting forth the grounds of his application, and showing—

(*a*) the minor's age and residence;

(*b*) the nature and amount of his property;

(*c*) what relatives he has in India or elsewhere, and

(*d*) the qualifications of the proposed guardian and his willingness to act as such.

Stamp.
Verification.

The petition shall bear a stamp of five rupees, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

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Notice of application.

The Court, if satisfied that there is ground for proceeding, shall give notice of the application to the person (if any) named in the petition as having the custody or being in possession of the person or property of such minor, as well as to any other person whom the Court may think should receive such notice, and shall fix as early a day as may be convenient for the hearing of the petition.

Production of minor.

6. The Court may direct that the person (if any) having the custody of such minor shall produce him at such place and time as may be appointed by the Court, and may make such order for the temporary custody and protection of the minor's person or property as may appear proper.

Evidence of fitness.

7. On the day fixed for the hearing of the petition or as soon after as may be practicable, the petitioner shall adduce evidence to show the fitness of the proposed guardian; and the Court shall make such order as it thinks fit in respect to the guardianship of the minor's person or property, or both, and the costs of the case.

Procedure.

8. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in the Code of Civil Procedure in so far as the same is applicable; and any order made by the Court under section six or section seven may be enforced as if such order had been in a regular suit or on appeal; and all orders made under this Act by Deputy Commissioners in British Burma shall be appealable as if they were decrees.

Forms.

The forms set forth in the schedule hereto annexed, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

Subsidiary rules.

And the Court may from time to time prescribe rules consistent with this Act for regulating the procedure hereunder:

Provided that, in the case of Courts of Deputy Commissioners in British Burma, such rules shall be prescribed by the Judicial Commissioner.

Orders under this Act not to be contested.

9. Save as provided by section eight, no order passed under this Act in respect to the guardianship of a minor's person or property shall be liable to be contested in any other proceeding.

Rules for awarding custody of minor.

10. In appointing the guardian of a minor, the Court shall be guided by the following considerations:—

(*a*).—By what appears to be for the best interest of the minor in respect to his temporal and his mental and moral welfare; and if the minor is old enough to form an intelligent preference, the Court may consider that preference:

(*b*).—As between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but if, other things been equal, the minor is of tender years, he should be given to the mother: if he is of an age to require education and preparation for labour and business, then to the father:

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(c).—The Court shall also consider the following circumstances according as they may bear upon the guardianship of person or of property :—

(1) Nearness of relationship;

(2) The wishes of a deceased parent;

(3) Any existing or previous connection of the proposed guardian with the minor's person or property.

## PART III.

### GUARDIANS' DUTIES, RIGHTS AND LIABILITIES.

#### *A.—Guardians of the Person.*

Duties of guardian of the person.

**11.** A guardian of the person is charged with the custody of the ward, and must look to his support, health and education.

Ward's religion.

**12.** A ward is presumed to be of his father's religion; and the guardian, in the absence of the Court's direction to the contrary, must train the ward in such religion. If the ward is old enough to form an intelligent preference for any religion, the Court, in giving such direction, shall attend to such preference.

Guardian entitled to custody of ward.

**13.** Any ward who may desert his home may be compelled by order of the Court to return. But such order may be withheld by the Court if it appear—

(a) that the ward has been subjected to mal-treatment at the hands of his guardian;

(b) that the conduct of the guardian in other respects renders him unfit for the office, or

(c) that the ward is on reasonable grounds unwilling to return and is old enough to form an intelligent preference on such a subject.

Removal of ward from jurisdiction.

**14.** No guardian of the person appointed by the Court shall, without the leave of the Court, remove its ward from the limits of its jurisdiction.

Any person wilfully contravening this prohibition shall be liable by order of the Court to fine not exceeding one thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

#### *B.—Guardians of Property.*

Duties of guardian of property.

**15.** A guardian of the property shall keep safely the property of his ward.

Prohibition of waste.

In the case of immoveable property he shall not suffer any waste, but shall maintain the buildings (if any) thereon and their appurtenances out of the rents and profits of the property.

Power to lease.

**16.** The guardian of any immoveable property may make leases for any term not exceeding a year, or from year to year, of such property or any part thereof; and with the sanction of the Court, may make such lease of the property, or any part thereof, for such term of years and subject to such rents and covenants as the Court may direct; but in no such case shall any fine or premium be taken.

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The lease shall be settled by an officer of the Court, and a counterpart thereof shall be executed by the lessee, and shall be deposited for safe custody in the Court until the ward completes the age of eighteen years; but all proper parties shall have the use thereof, if necessary, for the purpose of enforcing any covenant therein contained.

Power to use principal for ward's maintenance, &c.

17. The Court may order that the principal of the ward's property, or any part thereof, shall be applied for his maintenance, education or advancement, and the guardian of such property shall obey such order.

Rules as to guardians of property.

18. Every guardian of the property of a minor shall—

(*a*) give such security, if any, as the Court thinks fit duly to account for what he shall receive in respect of the minor's property;

(*b*) pass his accounts at such periods and in such form as the Court directs;

(*c*) pay the balance due from him thereon;

(*d*) be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties;

(*e*) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

*C.—As to all Guardians.*

Minor guardian incompetent to act.

19. No person appointed a guardian shall be competent to act as such unless he has completed the age of eighteen years.

Guardian under control of Court.

20. Every guardian, whether appointed by a parent or under this Act by a Court, is subjected to the control of the Court within the local limits of whose jurisdiction he resides.

Death of joint guardian.

21. On the death of one of two or more joint guardians, whether appointed by a parent or under this Act, the power continues to the survivor or survivors until a further appointment is made by the Court.

Removal of guardian.

22. A guardian may be removed by the Court for any of the following causes:—

(*a*) for abuse of his trust;

(*b*) for continued failure to perform its duties;

(*c*) for incapacity to perform its duties;

(*d*) for gross immorality;

(*e*) for having an interest adverse to the faithful performance of his duties;

(*f*) for removal from the local limits of the jurisdiction of the Court;

(*g*) the arrival within such local limits of some person whose guardianship the Court may think likely to be more beneficial to the minor than the guardianship of the person so removed;

(*h*) in the case of a guardian of the property, for insolvency.

Appointment of successor.

In any such case the Court may appoint a successor to the guardian so removed.

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Resignation of guardian.

**23.** Any guardian, whether appointed by a parent or by the Court, desiring to resign his office, may apply to the Court to discharge him,

and if the Court finds that there is some other proper person whom it may appoint to such guardianship, it shall discharge the guardian accordingly, and appoint such other proper person in his place.

Application for appointment on guardian's removal or resignation.

**24.** Applications for appointments under section twenty-two or section twenty-three shall be made in manner provided in section five ; and the procedure thereon shall be in accordance with section seven.

Close of authority of guardian.

**25.** The power of a guradian of the person ceases—

(*a*) by his removal or discharge ;

(*b*) by the ward's attaining majority, and

(*c*) in the case of a female ward, by her marriage followed by cohabitation.

The power of a guardian of the property ceases—

(*a*) by his removal or discharge ;

(*b*) by the ward's attaining majority.

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SCHEDULE.

I.—*Petition for Appointment of Guardian.*

(*See Section* 5.)

In the Chief Court of the Punjab [ *or* in the Court of the Recorder of Rangoon, *or as the case may be* ].

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

To Mr. Justice (*or as the case may be*).

The petition of *C. D.* of

Sheweth—

1. The said *A. B.* is now of the age of years and upwards. He is the same person as '*A.* son of *C.* and *L. B.*' named in the paper-writing now produced and shown to me and marked *A*, and purporting to be a copy under the seal of the General Register Office of the entry No. in the certified copy of entries of births in the district of *D.* in the county of *L.* for the year 187 .

2. The said *A. B.* is absolutely entitled. under the will of *his maternal uncle E. F.* late of (*residence and addition*) to the following properties (namely):—

(*a*) a house in let to *N. O.* as yearly tenant at Rs. 1,000 a year.

(*b*) Rs. 20,000 in the four per cent. securities of the Government of India, standing in the names of of *R. S.* and *T. W.*, the trustees of the will of the said *E. F.*

(*c*) Rs. 800 cash in the hands of the said *R. S.* and *T. W.*, arisen from dividends on the said stock.

3. The only relations of the said *A. B.* now living are—(*a*), your petitioner, his maternal uncle : (*b*)— *S.H.*, wife of *T. H.* of (*residence and addition*). the half-sister of the said *A. B.* and (*c*)—*R. D. V.*, the half-brother of the said *A. B.*, who is a Captain in Her Majesty's Army and now stationed at Bombay.

4. The said *A. B.* was, at the time of the death of his father, *C. B.*, which happened on the 187 , and is now, residing as a scholar at Bishop Cotton's School, Simla, in the custody of the Rev. M. N., the headmaster.

5. Your petitioner [*here state his qualifications as guardian, e. g., that he has attained his majority, is married, has children, resides with his family at some reasonably healthy place mentioning it, holds a responsible office, stating it*], and is willing to act as the guardian of the person and property [*or as may be*] of the said *A. B.* during his minority in case this Hon'ble Court shall think fit to appoint me to that office.

Your petitioner therefore prays this Hon'ble Court—

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1. That your petitioner or some other proper person may, upon giving security, be appointed the guardian of the person and property of the said *A. B.* during his minority, or until further order.

2. And that the said *C. D.* or other such guardian may from time to time pass his accounts and pay the balances which shall be certified to be due from him into the Government Treasury to the credit of this matter, and that such balances may be laid out in securities of the Government of India, or in loans or bonds secured by the Imperial Parliament on the revenues of India, or in debentures of railways guaranted by the Government of India, and the interest to accrue thereon and all accumulations of interest be laid out in like manner.

3. And that the costs of this petition may be taxed as between attorney and client ; and that the said *C. D.* or other such guardian may retain and pay the same out of any monies of the said minor which may come to his hands and be allowed the same on passing his said accounts.

(Signed) *C. D.*

*Form of Verification.*

(*See Section* 5).

I, *C. D.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

II.—*Affidavit of Fitness of Guardian.*

(*See Section* 7).

In the Chief Court, &c., (*or as the case may be*).

In the matter of *A. B.*, a minor, by *C. D.*, his next friend.

I, *E. F* of (*residence and addition*), make oath and say as follows :—

1. I know and have for years past been well acquainted with *C. D.*, the petitioner in this matter.

2. The said *C. D.* is married and has chidren, namely, a son of the age of years and daughters of the respective ages of and years.

3. The said *C. D.* resides with his wife and children at .

4. In my judgment and belief the said *C. D.* is a fit and proper person to be appointed guardian of the person and property of his nephew, the said minor *A. B.*, for the following reasons (*state them*) :—

Sworn at this day of 1871 , before me *E. F.*

(*Official character and description of E. F.*).

*III.—Recognizance by a Guardian of property and his surety, after an order appointing him subject to his giving security.*

Stamp as in case of a bond.

(*Short title.*) The Senior Judge of the Chief Court of the Punjab [*or as the case may be*] has approved of and allowed this recognizance.

X. Y., *Registrar.*

*C. D.*, (*the principal*), of (*residence and addition*), and *L. M.* (*the surety*) acknowledge themselves and each of them acknowledges himself to owe to the Secretary of State for India in Council the sum of Rs- [*to be regulated by the sum which the guardian is likely to receive during the currency of his periodical account*] to be paid to the said Secretary of State for India in Council ; and unless they pay the same, they the said *C. D.* and *L. M.*, do and each of them doth grant for himself his executors and administrators, that the said sum shall be levied and received from them and each of them and from their and his moveable and immoveable property.

Dated the day of 187 .

Whereas by an order of the Court of , made by (*name the Judge,*) in a certain matter there depending, intituled' In the matter of ' [*Recite the order appointing the guardian, subject to his giving security and continue thus* ] :—

And whereas (*name the Judge who has approved of the surety and recognizance*) has approved of the above bounden *L. M.* as surety for the said *C. D.*, and hath also approved of the above written recognizance with the under-written condition as a proper security to be entered into by the said *C. D.* and *L. M.* pursuant to the said order, and in testimony of the said approbation, the Registrar [*or as the case may be*] of the said Court hath signed an allowance in the margin thereof.

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Now the condition of the above-written recognizance is such, that if the said *C. D.* shall duly account for every sum of money which he shall receive on account of the property of the said minor *A. B.* and the rents and profits and other income thereof, at such periods as the said Judge shall appoint, and shall duly pay the balances which shall, from time to time, be certified to be due from him as the said Court or Judge hath directed, or shall hereafter direct, then the above recognizance shall be void, otherwise the same hall remain in force.

*C. D.* } Taken and acknowledged by the above-namd *C. D.* and *L. M.*, at in
*L. M.* } this day of 187 before me.

(*Signature and style of office of the officer by whom the recognizance is taken*).

## ACT No. XIV of 1874.

(*Passed on the 8th December* 1874).

An Act to ascertain the enactments in force in various parts of British India, and for other purposes.

Preamble.

Whereas various parts of British India have never been brought within, or have from time to time been removed from, the operation of the general Acts and Regulations and the jurisdiction of the ordinary Courts of Judicature ;

And whereas doubts have arisen in some cases as to which Acts or Regulations are in force in such parts, and in other cases as to what are the boundaries of such parts : And whereas among such parts are the territories specified in the first schedule hereto annexed, and it is expedient to provide readier means than now exist for ascertaining the enactments in force in such territories and the boundaries thereof, and for administering the law therein : And whereas it is expedient to declare that certain Acts are in force in a tract of land lying between the Railway Station at Satna and the eastern boundary of the Jabalpur Division ;—

It is hereby enacted as follows :—

Short title.

1. This Act may be called " The Scheduled Districts Act, 1874 :"

Local extent.

This Act extends in the first instance to the whole of British India other than the territories mentioned in the first schedule hereto annexed, and it shall come into force in each of the Scheduled Districts on the issue of a notification under section three relating to such District.

Interpretation-clause.

In this Act the term " Scheduled Districts" means the territories mentioned in the first schedule hereto annexed ; and, from the date fixed in the resolution next hereinafter mentioned, it shall also include any other territory to which the Secretary of State for India, by resolution in Council, may declare the provisions of the thirty-third of Victoria, chapter three, section one, to be applicable.

NOTE.—This Act was declared to be in force in the Scheduled Districts of the Punjab by Government of India Notification No. 144 J., dated 18th September 1877.

Repeal of enactments.

2. The enactments mentioned in the second schedule hereto annexed shall be repealed.

Notification of enactments in force in Scheduled Districts.

3. The Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the *Gazette of India* and also in the local Gazette (if any)—

(*a*) declare what enactments are actually in force in any of the Scheduled Districts, or in any part of any such District,

(*b*) declare of any enactment that it is not actually in force in any of the said Districts or in any part of any such District,

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(c) correct any mistake of fact in any notification issued under this section :

Provided that a declaration once made under clause (a) or clause (b) of this section shall not be altered by any subsequent declaration other than a declaration under clause (c) of this section.

NOTE.—See Notes (a), (b) and (c) at the end of the Act.

Effect of notification under Section 3.

4. On the issue, under section three, of a notification declaring what enactments are in force, or not in force, in any Scheduled District, the enactment so notified shall be deemed to be in force, or not in force, according to the tenor of the notification, in such District, and every such notification shall be binding on all Courts of law.

Power to extend enactments to Scheduled Districts.

5. The Local Government, with the previous sanction of the Governor-General in Council, may from time to time, by notification in the *Gazette of India* and also in the local Gazette (if any), extend to any of the Scheduled Districts, or to any part of any such District, any enactment which is in force in any part of British India at the date of such extension.

NOTE.— See Note (d) at the end of this Act.

Appointment of officers and regulation of their procedure.

6. The Local Government may from time to time—

(a) appoint officers to administer civil and criminal justice, and to superintend the settlement and collection of the public revenue, and all matters relating to rent, and otherwise to conduct the administration, within the Scheduled Districts,

(b) regulate the procedure of the officers so appointed ; but not so as to restrict the operation of any enactment for the time being in force in any of the said Districts,

(c) direct by what authority any jurisdiction, powers or duties incident to the operation of any enactment for the time being in force in such District shall be exercised or performed.

Continuance of existing rules and officers.

7. All rules heretofore prescribed by the Governor-General in Council or the Local Government for the guidance of officers appointed within any of the Scheduled Districts for all or any of the purposes mentioned in section six and in force at the time of the passing of this Act, shall continue to be in force unless and until the Governor-General in Council or the Local Government, as the case may be, otherwise directs.

All existing officers so appointed previous to the date on which this Act comes into force in such District shall be deemed to have been appointed hereunder.

Settlement of questions as to boundary.

8. Whenever any question arises as to the line of boundary between any of the Scheduled Districts and other territory, such officer as the Local Government or (where the said District and the other territory are not subject to the same Local Government) as the Governor-General in Council from time to time appoints, may consider and determine such line of boundary ;

and the order made thereon by such officer, if confirmed by the Government which appointed him, shall be conclusive in all Courts of Justice.

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Place of imprisonment or transportation.

**9.** Any person liable to be imprisoned or to be transported beyond sea under any order or sentence passed by any officer appointed under section six, may (subject to such rules as the Governor-General in Council may from time to time prescribe in this behalf), be imprisoned in such jail or transported to such place as the Local Government directs.

Extension to Satná strip of Acts relating to public gambling, pandhari-tax and salt.

**10.** Acts No. III of 1867, No. XIV of 1867, and No. XXV of 1869 are hereby declared to be in force in the tract of land ceded to the British Government in the year 1863, and lying between the Railway Station at Satna and the eastern boundary of the Jabalpur District.

Saving of criminal jurisdiction over European British subjects.

**11.** Nothing contained in this Act or in any notification issued under the powers hereby conferred shall be deemed—

(*a*) to affect the criminal jurisdiction of any Court over European British subjects, or

(*b*) to affect any law other than laws contained in Acts or Regulations or in rules made in exercise of powers conferred by such Acts or Regulations.

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## THE FIRST SCHEDULE.

(*See Section* 1.)

### PART I.

SCHEDULED DISTRICTS, MADRAS.

I.—*In Ganjam.*

(1.) The Gumsur Maliahs, including Chokapad.
(2.) The Surada Maliahs.
(3.) The Chinna Kimedi Maliahs.
(4.) The Pedda Kimedi Maliahs.
(5.) The Bodaguda Maliahs.
(6.) The Surangi Maliahs.
(7.) The Parla Kimedi Maliahs.
(8.) The Muttás of Korádá and Ronaba (otherwise called Srikarma).
(9.) The Chighatti Maliah.
(10.) The Juradá Maliah.
(11.) The Jalantra Maliah.
(12.) The Mandasa Maliah.
(13.) The Budarasinghi Maliah.
(14.) The Kuttingia Maliah.

II.—*In Vizagapatam.*

(1.) The Joypur Zamindari.
(2.) Golconda Hills, west of the River Boderu.
(3.) The Madugol Maliahs.
(4.) The Kasipur Zamindari.
(5.) The Panchipenta Maliahs.
(6.) Mondemkolla, in the Merangi Zamindâri.
(7.) The Konda Mutta of Belgam.
(8) The Gumna and Konda Muttas of Kurpam.
(9.) The Kottom, Ram and Konda Muttas of Palkonda.

III.—*In the Godavari District.*

The Laccadive Islands, including Minicoy.

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### PART II.

SCHEDULED DISTRICTS, BOMBAY.

I.—The Province of Sindh.
II.—*The Panch Mahals.* *
III.—Aden.
IV.—The villages belonging to the following Mehwassi Chiefs :—

(1.) The Parvi of Kathi.
(2.) The Parvi of Nal.
(3.) The Parvi of Singpur.
(4.) Walwi of Gaohalli.
(5.) The Wassawa of Chikhli.
(6.) The Parvi of Nawalpur.

* See Act VII of 1885.

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## PART III.

### SCHEDULED DISTRICTS, BENGAL.

I.—The Jalpaigori and Darjeeling Divisions.
II.—The Hill Tracts of Chittagong.
III.—The Santhal Parganas.
IV.—The Chutia Nagpur Division.
V.—The Mahal of Angul.

## PART IV.

### SCHEDULED DISTRICTS, NORTH-WESTERN PROVINCES.

I.—The Jhánsi Division, comprising the Districts of Jhánsi, Jalaun and Lalatpur.
II.—The Province of Kumáon and Garhwál.
III.—The Terai Parganas, comprising Bazpur, Jaspur, Rudarpur, Gadarpur, Kilpuri, Nanak-Mattha and Bilheri.
IV.—In the Mirzapur District—
(1.) The tappas of Agori Khas and South Kon in the Pargana of Agori.
(2.) The tappa of British Singrauli in the Pargana of Singrauli.
(3.) The tappás of Phulwá, Dudhi and Barhá in the Pargana of Bichipár.
(4.) The portion lying to the South to the Kaimor Range.
V. * * * * * * * *
VI.—The tract of country known as Jaunsar Bawar in the Dehra Dun District.

## PART V.

### SCHEDULED DISTRICTS, PUNJAB.

The districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan, Dera Ghazi Khan, Lahaul and Spiti.

## PART VI.

### SCHEDULED DISTRICTS, CENTRAL PROVINCES.

*Chhattisgarh Zamindaris, viz:*

1. Khariar.
2. Bindra Nawagarh.
3. Sahezpur.
4. Gandai.
5. Silheti.
6. Barbaspur.
7. Thakurtola.
8. Lohara.
9. Gondaraehi.
10. Fingeswar.
11. Pandaria.
12. Pendra.
13. Matin.
14. Uprora.
15. Kenda.
16. Lapha
17. Chhuri.
18. Korba.
19. Chapa.
20. Bora Sambhar.
21. Phuljhar.
22. Kolabira.
23. Rampur.

*Chanda Zamindaris.*

1. Ahiri.
2. Ambagarh Chauki.
3. Aundhi.
4. Dhanora.
5. Dudhmala.
6. Gewarda.
7. Jharapapra.
8. Khutgaon.
9. Koracha.
10. Kotgal.
11. Muramgaon.
12. Panabaras.
13. Palasgarh.
14. Rangi.
15. Sirsundi.
16. Sonsari.
17. Chandala.
18. Gilgaon.
19. Pawi Mutanda.
20. Pategaon.

*Chhindwara Jagirdaris.*

1. Harai.
2. Chhater.
3. Gorakhghat.
4. Gorpani.
5. Baktagarh.
6. Bardagarh.
7. Pachmarhi.
8. Partabgarh.
9. Almod.
10. Sonpur.
11. Bariam Pagará.

## PART VII.

The Chief Commissionership of Coorg.

## PART VIII.

The Chief Commissionership of the Andaman and Nicobar Islands.

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PART IX.

The Chief Commissionership of Ajmere and Mairwara.

PART X.

The Chief Commissionership of Assam.

PART XI.

The Hill Tracts of Arakan.

PART XII.

The Pargana of Manpur.

PART XIII.

The Cantonment of Morar.

THE SECOND SCHEDULE.

(*See Section 2*).

(*Enactments repealed*)—*Omitted.*

NOTES.—(*a*). With the sanction of the Governor-General in Council, the following Acts are declared, under the provisions of Section 3 of Act XIV of 1874, to be in force in the following Scheduled Districts of the Punjab, namely :—

| | |
|---|---|
| Hazara. | Bannu. |
| Peshawar. | Dera Ismail Khan. |
| Kohat. | Dera Ghází Khan. |

| Year. | Number. | Subject. | REMARKS. |
|---|---|---|---|
| 1836 | XXVI | Governor-General's Camp Police. | |
| 1837 | IV | Power to acquire land. | |
| 1838 | XXV | Wills executed before the 1st January 1866. | |
| 1839 | XXIX | Dower when marriage was contracted before 1st January 1866. | |
| ,, | XXX | Inheritance, where descent took place before 1st January 1866. | |
| ,, | XXXII | Interest. | |
| 1841 | XI | Military Courts of Requests. | |
| ,, | XIX | Curators in cases of succession. | |
| 1842 | IX | Lease and release. | |
| ,, | XII | Military bazars. | |
| 1843 | V | Slavery. | |
| 1847 | XX | Copyright. | |
| 1850 | XVIII | Protection of Judicial Officers. | |
| ,, | XIX | Binding of apprentices. | |
| ,, | XXI | Non-forfeiture of rights by loss of caste. | |
| ,, | XXXIV | State prisoners. | |
| ,, | XXXVII | Inquiries into behaviour of public servants. | |
| 1851 | VIII | Tolls on roads and bridges. | |
| 1852 | XXX | Naturalization of aliens. | |
| ,, | XXXIII | Enforcement of Judgments of Charter Courts and Military Courts of Requests. | |
| 1853 | II | Burdens on land. | |
| ,, | XIX Sec. 26 | Recusant witnesses. | |
| 1854 | XXVI | Education of male minors subject to the superintendence of the Court of Wards. | |
| ,, | XXXI | Barring entails ; conveyances by married women. | |
| 1855 | XI | Mesne profits and improvements. | |
| ,, | XII | Executors and Admistrators. | |
| ,, | XXIII | Administration of mortgaged estates in cases of descents occurring or devices made before the 1st | |

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| Year. | Number. | Subject. | Remarks |
|---|---|---|---|
| | | January 1866. | |
| ,, | XXIV | Penal servitude. | |
| ,, | XXVIII | Interest | |
| 1856 | XI | Desertion by European soldiers. | |
| ,, | XV | Marriage of Hindu widows. | |
| 1857 | XI | Offences against the State. | |
| ,, | XXV | Forfeiture by mutineers. | |
| 1858 | III | State prisoners. | |
| ,, | XXXV | Estates of lunatics not subject to jurisdiction of Supreme Courts. | |
| ,, | XXXVI | Lunatic Asylums. | |
| ,, | XL | Care of persons and property of minors. | |
| 1859 | III | Cantonment Joint-Magistrates. | |
| ,, | IX | Claims to property seized as forfeited | |
| ,, | XV | Patents. | |
| 1860 | XXI | Registration of Societies. | |
| ,, | XXVII | Collection of debts on successions. | |
| 1861 | IX | Minors. | |
| 1862 | III | Government seal. | |
| 1863 | XVI | Excise duty payable on spirits used in arts and manufactures. | |
| ,, | XXIII | Claim to waste lands. | |
| ,, | XXXI | Gazette of India. | |
| 1864 | III | Foreigners. | |
| ,, | VI | Whipping. | |
| ,, | XV | Tolls on public roads and bridges. | |
| 1865 | III | Common carriers. | |
| ,, | XI | Mofussil Courts of Small Causes. | |
| ,, | XV | Marriage and divorce among Parsis. | |
| ,, | XXI | Intestate succession among Parsis. | |
| 1866 | V, Secs. 1 & 15 | Bills of Exchange, Commercial Law. | |
| ,, | XXI | Dissolution of marriage of native converts. | |
| ,, | XXVIII | Trustees and mortgagees' powers ... ... | So far as not repealed by Act II of 1882. |
| 1867 | XXV | Printing Presses, &c. | |
| 1869 | XV | Evidence of prisoners. | |

(*Punjab Government Notification No.* 1071, *dated* 21*st December* 1885, *Punjab Gazette of* 24*th idem, Part I, page* 1163, *and Gazette of India of* 30*th January* 1886).

(*b*). No. 396.—With the sanction of the Governor-General in Council, the following Acts are declared, under the provisions of Section 3 of Act XIV of 1874, to be in force in the Scheduled District of Lahul in the Punjab :—

1836. XXVI.—Governor-General's Camp Police.
1837. IV.—Powers to acquire land.
1838. XXV.—Wills executed before 1st January 1866.
1839. XXXII.—Interest.
1841. XIX.—Curators in cases of succession.
1843. V.—Slavery.
1847. XX.—Copyright.
1850. XVIII.—Protection of Judicial Officers.
1850. XXI.—Non-forfeiture of rights by loss of caste.
1850. XXXIV.—Custody of State prisoners.
1850. XXXVII.—Enquiries into behaviour of public servants.
1851. VIII.—Tolls on public roads and bridges.
1852. XXX.—Naturalization of aliens.
1852. XXXIII.—Enforcement of judgments beyond jurisdiction, &c.
1853. II.—Burdens on land.
1854. XXVI.—Education of male minors, &c.
1855. XII.—Executors and Administrators.
1855. XXVIII.—Interest.
1856. XV.—Marriage of Hindu widows.
1857. XI.—Offences against the State.
1858. XXXV.—Care of the estates of lunatics.
1858. XXXVI.—Lunatic Asylums.
1858. XL.—Care of person and property of minors.
1858. III.—Arrest and detention of prisoners.
1860. XXVII.—Collections of debts on succession.

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| | |
|---|---|
| 1861. | IX.—Minors. |
| 1863. | XXIII.—Claim to waste lands. |
| 1863. | XXXI.—Gazette of India. |
| 1864. | III.—Foreigners. |
| 1864. | VI.—Whipping. |
| 1864. | XV.—Tolls on public roads and bridges. |
| 1866. | XXI.—Dissolution of marriage of converts. |
| 1869. | XV.—Prisoners Testimony Act. |

*No.* 397.—With the sanction of the Governor-General in Council, the following Acts are declared, under the provisions of Section 3 of Act XIV of 1874, *not* to be in force in the Scheduled District of Lahul in the Punjab :—

| | |
|---|---|
| 1839. | XXX.—Inheritance when descent took place before 1st January 1866. |
| 1839. | XXIX.—Dowers when the marriage was contracted before 1st January 1866. |
| 1841. | XI.—Military Courts of Request. |
| 1842. | IX.—Lease and release. |
| 1842. | XII.—Military Bazars. |
| 1850. | XIX.—Binding of apprentices. |
| 1853. | XIX.—Recusant witnesses. |
| 1854. | XXXI.—Barring entails, &c. |
| 1855. | XI.—Mesne profits and improvements. |
| 1855. | XXIII.—Administration of mortgaged estates, &c. |
| 1855. | XXIV.—Penal servitude. |
| 1856. | XI.—Desertion by European Soldiers. |
| 1857. | XXV.—Forfeiture by Mutineers. |
| 1859. | XV.—Patents. |
| 1859. | III.—Cantonment Joint Magistrates. |
| 1859. | IX.—Claims to forfeited property. |
| 1860. | XXI.—Registration of Societies. |
| 1862. | III.—Government Seal. |
| 1863. | XVI.—Excise duty on spirits used in arts. |
| 1865. | XI.—Small Cause Court. |
| 1865. | XXI.—Intestate succession among Parsis. |
| 1865. | XV.—Parsis' Marriage and Divorce. |
| 1865. | III.—Common carriers. |
| 1866. | V.—Bills of Exchange. |
| 1866. | XXVIII.—Trustees and mortgagees' powers. |
| 1867. | XXV.—Printing Presses, &c. |
| 1870. | I.—Quarantine. |

(*Punjab Government Notifications No.* 396, 397, *dated 7th April* 1886, *Punjab Gazette of 8th idem, Part I, pp.* 176, 177, *and Gazette of India of 1st May* 1886).

(*c*). In exercise of the powers conferred by Section 3 of the Scheduled Districts Act 1874, the Hon'ble the Lieutenant-Governor is pleased, with the previous sanction of the Governor-General in Council, to declare Act XX of 1863 (to enable the Government to divest itself of the management of religious endowments) to be in force in the following Scheduled Districts of the Punjab, namely, Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan.

(*Punjab Government Notification No.* 566, *dated 18th May* 1886, *Punjab Gazette of 20th idem, Part I, page* 292, *and Gazette of India of 5th June* 1886).

(*d*). The following Acts have been extended to the scheduled districts of the Punjab under the powers conferred by Section 5 :—

I. Act XII of 1850.—(*Government of India Notification No.* 2833 *I, dated 24th December* 1883, *Gazette of India of 29th idem*).

II. Act XIII of 1855.—(*No.* 296 *I. J. dated 13th October* 1881, *Punjab Gazette of 20th idem, Part II, page* 312).

III. Act I of 1877 (The Specific Relief Act).—(*No.* 145 *J. dated 18th September* 1877, *Gazette of India of 22th idem, page* 562).

IV. Act XIV of 1882 (The Code of Civil Procedure).—(*No.* 69 *I. J. dated 1st June* 1882, *Punjab Gazette of 8th idem, Part I, page* 126).

## ACT No. XV of 1874.

(*Passed on the 8th December* 1874).

An Act for declaring the local extent of certain Enactments, and for other purposes.

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Preamble.

Whereas it is expedient to declare the local extent of certain Acts passed by the Governor-General of India in Council, the Legislative Council of India, and the Council of the Governor-General of India assembled for the purpose of making Laws and Regulations; And whereas it is also expedient to consolidate the laws relating to the local extent of certain Acts and Regulations in the Presidencies of Fort St. George and Bombay, and in the Lower and the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby declared and enacted as follows:—

Short title.

1. This Act may be called "The Laws Local Extent Act, 1874."

Interpretation-clause.

2. In this Act the expression "Scheduled Districts" means the territories mentioned in the sixth schedule hereto annexed.

Local extent of Acts in first schedule.

3. The Acts mentioned in the first schedule hereto annexed are now in force throughout the whole of British India, except the Scheduled Districts.

Local extent of enactments in second schedule.

4. The enactments mentioned in the second schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Governor of Fort St. George in Council, except the Scheduled Districts subject to such government.

Local extent of enactments in third schedule.

5. The enactments mentioned in the third schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Governor of Bombay in Council, except the Scheduled Districts subject to such government.

Local extent of enactments in fourth schedule.

6. The enactments mentioned in the fourth schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Lieutenant-Governor of Bengal, except the Scheduled Districts subject to such government.

Local extent of enactments in fifth schedule.

7. The enactments mentioned in the fifth schedule hereto annexed are now in force throughout the whole of the territories now subject to the government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, except the Scheduled Districts subject to such government.

Savings.

8. Nothing herein contained shall—

(*a*) bar the power of the Governor-General in Council or the Local Government, under any law for the time being in force, to extend to any place any Act mentioned in the said first schedule;

(*b*) extend any Act empowering the Local Government to extend the same or any part thereof, or affect in any manner the exercise of such power;

(*c*) affect the operation of any Act or Regulation heretofore extended to or declared to be in force in any of the Scheduled Districts;

(*d*) revive any enactment which has been repealed either generally or with reference to some special subject;

(*e*) *Repealed by Act VIII of* 1887;

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(*f*) extend Act No. XVII of 1840, or Act No. VII of 1852, or Madras Regulation I of 1805, or Madras Regulation II of 1807, to any place in which Madras Act No. VI of 1871 is in force ;

(*g*) extend Act No. IX of 1861 to any part of the territories subject to the government of the Governor of Bombay in Council ;

(*h*) *Repealed by Act VIII of* 1887 ;

(*i*) extend to the villages mentioned in the schedule to Act No. IV of 1868 any law not now in force therein ;

(*j*) extend to any of the Towns of Calcutta, Madras and Bombay any law not now in force therein ;

(*jj*) extend to Pargana Bhadohi or Pargana Kera Mangror in the Mirzapur District, or to Pargana Kaswar Raja in the Benares district, any law not now in force therein ;

NOTE.—See Act XIV of 1881.

(*k*) affect the operation of any enactment not mentioned in any of the schedules hereto annexed.

**9.** *Repealed by Act XII of* 1876.

FIRST SCHEDULE.

(*See Section* 3).

ACTS OF THE SUPREME COUNCIL.

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1836. | XXVI ... ... ... | Governor-General's Camp Police. |
| 1837. | IV ... ... ... | Power to acquire land. |
| 1838. | XXV ... ... ... | Wills executed before the 1st January 1866. |
| 1839. | XXIX ... ... ... | Dower, when marriage was contracted before 1st Jany. 1866. |
| ,, | XXX ... ... ... | Inheritance, where descent took place before 1st Jany. 1866. |
| ,, | XXXII ... ... ... | Interest. |
| 1841. | X ... ... ... | Registration of ships. |
| ,, | XIX ... ... ... | Curators in cases of successions. |
| 1842. | IX ... ... ... | Lease and release. |
| 1843. | V ... ... ... | Slavery. |
| 1847. | XX ... ... ... | Copyright. |
| 1850. | V ... ... ... | Coasting Trade. |
| ,, | XI ... ... ... | Navigation Laws. |
| ,, | XII ... ... ... | Default of Public Accountants. |
| ,, | XVIII ... ... ... | Protection of Judicial Officers. |
| ,, | XIX ... ... ... | Binding of Apprentices. |
| ,, | XXI ... ... ... | Non-forfeiture of rights by loss of Caste. |
| ,, | XXXIV ... ... ... | State Prisoners. |
| ,, | XXXVII ... ... ... | Inquiries into the behaviour of public servants. |
| 1852. | XXX ... ... ... | Naturalization of Aliens. |
| 1853. | II ... ... ... | Burdens on land. |
| 1854. | XVIII ... ... ... | Railways. |
| ,, | XXXI ... ... ... | Barring entails : Conveyances by married women. |
| 1855. | XI ... ... ... | Mesne profits and improvements. |
| ,, | XII ... ... ... | Executors and administrators. |
| ,, | XIII ... ... ... | Compensation for loss occasioned by death caused by actionable wrong. |
| ,, | XXIII ... ... ... | Administration of mortgaged estates in cases of descents occurring or devises made before the 1st January 1866. |
| ,, | XXIV ... ... ... | Penal servitude. |
| ,, | XXVIII ... ... ... | Interest. |
| 1856. | IX ... ... ... | Bills of Lading. |
| ,, | XI ... ... ... | Desertion by European Soldiers. |
| ,, | XV ... ... ... | Marriage of Hindu Widows. |
| 1857. | XI ... ... ... | Offences against the State. |
| ,, | XXV ... ... ... | Forfeiture by Mutineers. |
| 1858. | III ... ... ... | State Prisoners. |

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FIRST SCHEDULE—*continued.*

ACTS OF THE SUPREME COUNCIL—*continued.*

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1858. | XXXV ... ... ... | Estates of Lunatics not subject to jurisdiction of Supreme Courts. |
| ,, | XXXVI ... ... ... | Lunatic Asylums. |
| 1859. | I ... ... ... | Merchant Seamen. |
| ,, | VIII ... ... ... | Civil Procedure. |
| ,, | IX ... ... ... | Sections 16, 17, 18 and 20—Forfeitures. |
| ,, | XIV (Sec. 15) ... | Suits to recover possession of land. |
| ,, | XV ... ... ... | Patents. |
| 1860. | XXI ... ... ... | Registration of Societies. |
| ,, | XXVII ... ... ... | Collection of debts on Successions. |
| 1861. | IX ... ... ... | Minors. |
| ,, | XXIII ... ... ... | Amending Civil Procedure Code. |
| 1862. | III ... ... ... | Government Seal. |
| 1863. | VI ... ... ... | Sea Customs. |
| ,, | XVI ... ... ... | Excise Duty payable on Spirits used in Arts and Manufactures. |
| 1863. | XXIII ... ... ... | Claim to waste-lands. |
| ,, | XXXI ... ... ... | Gazette of India. |
| 1864. | III ... ... ... | Foreigners. |
| ,, | VI ... ... ... | Whipping. |
| 1865. | III ... ... ... | Common Carriers. |
| ,, | XV ... ... ... | Marriage and divorce among Parsees. |
| ,, | XXI ... ... ... | Intestate succession among Parsees. |
| 1866 *. | V ... ... ... | Bills of Exchange, Commercial Law. |
| ,, | X ... ... ... | Companies. |
| ,, | XXI ... ... ... | Dissolution of Marriages of Native Converts. |
| ,, | XXVIII ... ... ... | Trustees and Mortgagees' Powers. |
| 1867. | XXV ... ... ... | Printing Presses, &c. |
| 1868. | X ... ... ... | Amending Consolidated Customs Act. |
| 1869. | XV ... ... ... | Evidence of Prisoners. |
| 1870. | I ... ... ... | Quarantine. |

* Act XXVI of 1881 repeals this Schedule so far is it relates to Act V of 1866, SS. 11, 12, 13.

SECOND SCHEDULE.

(*See Section* 4).

(*a*).—MADRAS REGULATIONS.

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1802. | III (ss. 1, 11, part of s. 16 only) | Procedure of Civil Courts. |
| ,, | V (s. 30) ... | Sadr Adálat to act according to justice, &c. |
| ,, | XIII ... ... | Records of Courts. |
| ,, | XIX (s. 2) ... | Covenanted Civil Servants forbidden to lend. |
| ,, | XXV ... ... | Settlement of Land-revenue. |
| ,, | XXVI (ss. 1, 2 & 3 only) | Registration of málguzári land. |
| ,, | XXIX ... ... ... | Karnams. |
| 1803. | I ... ... ... | Board of Revenue. |
| ,, | II ... ... ... | Conduct of Collectors, &c. |
| 1804. | V ... ... ... | Court of Wards. |
| 1805. | I ... ... ... | Salt-revenue. |
| 1806. | II (parts of ss. 1 & 7) | Collectors and Karnams. |
| 1807. | II ... ... ... | Salt-revenue. |
| 1808. | VII ... ... ... | Martial Law. |
| 1816. | IV ... ... ... | Village Munsifs. |
| ,, | V ... ... ... | Village Panchayats. |
| ,, | IX (s. 43 only) ... | Prosecution of Zila Magistrates. |
| ,, | XI ... ... ... | Sections 8, 9, 10—Heads of villages: Section 11, cl. 1—Stolen property: Section 13—Discovery of corpses: Section 14—Register of persons confined by heads of village; and Section 47—Magistrates charged with maintenance of peace. |
| ,, | XII ... ... ... | Reference of claims regarding land and produce to Village and District Panchayats. |
| ,, | XIV ... ... ... | Native Pleaders. |
| 1817. | VII ... ... ... | Maintenance of Bridges, &c: Escheats. |

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(*b*).—ACTS OF THE SUPREME COUNCIL RELATING TO THE MADRAS PRESIDENCY.

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1817. | VIII (s. 9 only) ... | Sale for arrears of revenue of estate belonging to Native Officer or Soldier. |
| ,, | II ... ... ... | State Prisoners. |
| 1822. | IV ... ... ... | Explanation of Madras Regulation XXV, 1802. |
| ,, | VII (cl. 1 of s. 3 only) | Native Officers in Revenue and other Public Departments. |
| ,, | IX ... ... } | Embezzlement by public servants and malversation in revenue matters. |
| 1823. | III ... ... } | |
| 1828. | VII ... ... ... | Powers of Subordinate and Assistant Collectors. |
| 1829. | V ... ... ... | Hindú Wills and estates. |
| 1830. | I ... ... ... | Prohibition of widow-burning. |
| 1831. | V (s. 7, cl. 2 only) | Liability of Ministerial Officers for reception of improperly stamped document. |
| ,, | VI ... ... ... | Hereditary Village Officers. |
| ,, | X ... ... ... | Prohibition of Sale of Estates of Minors for Arrears of Revenue. |
| 1832. | III... ... ... | Limitation for Suits against orders of Revenue Authorities under Madras Regulation VII of 1828. |
| ,, | XIV... ... ... | Purchase of clothes from Soldiers. |
| 1837. | XXXVI ... ... ... | Criminal Jurisdiction of Collectors. |
| 1839. | VII ... ... ... | Tahsildars. |
| 1840. | VIII ... ... ... | Awards of Panchayats. |
| ,, | XVII ... ... ... | Penalties for breach of Salt Laws. |
| 1844. | VI ... ... ... | Duties. |
| 1846. | I ... ... ... | Pleaders. |
| ,, | IX ... ... ... | Harbours. |
| 1849. | X ... ... ... | Commissioners of Revenue. |
| 1852. | VII ... ... ... | Penalties for breach of Salt Laws. |
| 1853. | XX ... ... ... | Pleaders. |
| 1855. | X ... ... ... | Section 10—Recusant witnesses. |
| ,, | XXI ... ... ... | Minors. |
| 1857. | VII ... ... ... | Uncovenanted Agency. |
| 1858. | I ... ... ... | Compulsory Labour. |
| ,, | XIV ... ... ... | Minors. |
| 1859. | XXIV ... ... ... | Police. |
| 1860. | XXVIII ... ... ... | Boundary Marks. |
| 1869. | XI ... ... ... | Land Customs. |

## THIRD SCHEDULE.

(*See Section* 5).

(*a*).—BOMBAY REGULATIONS.

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1827. | II ... ... ... | Section 21 (caste questions) ; Sections 47 to 54 (inclusive) and Section 56 (pleaders). |
| ,, | IV ... ... ... | Section 26 (law applicable to suits) ; Section 69, clauses *second* and *third* (attachment and distraint of crops). |
| ,, | V ... ... ... | Preamble : Section 9 (acknowledgments of debt) : Section 14 (interest) : Section 15, (mortgages and pledges). |
| ,, | VIII ... ... ... | Administration of Estates. |
| ,, | XII ... ... ... | Preamble : Section 19 (Magistrate's power to make rules) : Section 20 (standards of weights and measures) : Section 27, clause 2 (supervision of suspected persons) ; Section 37, clauses *first* and *second* (responsibility of villages for robberies). |
| ,, | XIII ... ... ... | Section 34, clause *third* (letter substituted for summons). |
| ,, | XVI ... ... ... | Revenue Administration. |
| ,, | XXI ... ... ... | Sections 1 to 16, inclusive (Duty on opium) : Sections 6, 54 to 66, inclusive (spirits) Sections 67, to 73, inclusive, (penalties). |

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THIRD SCHEDULE—*continued.*

(*a*).—BOMBAY REGULATIONS—*continued.*

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1827 | XXII ... ... ... | Section 18 (Furnishing false certificates to soldiers) : Section 19 (buying uniform, arms, &c.) : Section 20 (recovery of value of embezzled stores) : Sections 40, 41, 42, 43 (passage of troops) : Sections 45, 46, 47 (requisitions for Military aid). |
| ,, | XXV ... ... ... | State Prisoners. |
| 1830. | V ... ... ... | Section 1 (Revenue Commissioners) : Section 2, clauses 1 2, 3 (Collectors and Sub-Collectors). |
| ,, | XIII ... ... ... | Civil jurisdiction or Jagirdars. |
| 1831. | XV ... ... ... | Village Patels. |
| 1832. | II ... ... .. | Realization of Revenue. |
| 1833. | V ... ... ... | Hereditary Officers. |

(*b*).—ACTS OF THE SUPREME COUNCIL RELATING TO THE BOMBAY PRESIDENCY.

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1838, | XVI ... ... ... | Judiciary. |
| ,, | XVIII ... ... ... | Sureties. |
| ,, | XIX ... ... ... | Coasting Vessels. |
| 1839, | XX ... ... ... | Revenue. |
| 1840, | XV ... ... ... | Agents of Foreign Sovereigns. |
| 1842, | XIII ... ... ... | Revenue. |
| ,, | XVII ... ... ... | Revenue Commissioners. |
| 1843, | XI ... ... ... | Hereditary Officers. |
| 1844, | XIX ... ... ... | Abolition of Town Duties. |
| 1846, | I ... ... ... | Pleaders. |
| ,, | III ... ... ... | Sections 1, 5 and 6—Boundary Marks. |
| 1852, | III ... ... ... | Spirituous Liquors. |
| ,, | XXI ... ... ... | Deputy Collectors. |
| 1853, | XX ... ... ... | Pleaders. |
| 1855, | X ... ... ... | Section 10—Recusant Witnesses. |
| 1856, | VIII ... ... ... | Control of Gaols. |
| 1864, | XX ... ... ... | Minors. |

FOURTH SCHEDULE.

(*See Section* 6).

(*a*).—BENGAL REGULATIONS (LOWER PROVINCES).

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1793, | I ... ... ... | Perpetual Settlement. |
| ,, | II ... ... ... | Collection of Land-revenue. |
| ,, | VIII ... ... ... | Rules for Decennial Settlement. |
| ,, | XI ... ... ... | Native laws of inheritance to Revenue-paying land. |
| ,, | XIX ... ... ... | Title to lands exempt from Revenue. |
| ,, | XXXVII ... ... ... | Title to lands exempt from Revenue under badshâhi grants. |
| ,, | XXXVIII ... ... ... | Section 1—Preamble : Section 2—Prohibition of loans by Covenanted Servants. |
| ,, | XLVIII ... ... ... | Quinquennial Register of Revenue-paying lands. |
| 1794, | III ... ... ... | Sections 12, 13, 16, 17, 8, 19 and 20—Arrears of Revenue |
| 1797, | XV ... ... ... | Fees for keeping Revenue Records. |
| 1798, | I ... ... ... | Conditional Sales of Land. |
| 1799, | V ... ... ... | Wills and Intestacies of Natives. |
| 1800, | VIII ... ... ... | Pargana Register of Lands. |
| 1801, | I ... .. ... | Arrears of Revenue : Division of Joint Estates. |
| 1804, | X ... ... ... | Punishment by Courts Martial of certain State offences. |
| 1806, | IX ... ... ... | Passage of Troops. |
| ,, | XVII ... ... ... | Sections 7 and 8—Mortgages a[illegible] [illegible]al sales. |
| 1810, | XIX ... ... ... | Maintenance of Bridges, &c. ; [illegible]ats. |
| ,, | XX ... ... ... | Camp-followers, Bazárs, &c.; Cantonments. |

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FOURTH SCHEDULE—*continued.*

(*a*).—BENGAL REGULATIONS (LOWER PROVINCES)—*continued.*

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1811, | XI ... ... ... | Revision of jama on lands ordered to be divided. |
| 1812, | V ... ... ... | Collection of Land-Revenue. |
| ,, | XI ... ... ... | Removal of Foreign Emigrants. |
| 1814 | XIX ... ... ... | Partition of Revenue-paying Estates. |
| 1817, | XX ... ... ... | Section 28—Abkári : Section 29—Criminal process in Salt and Opium Departments : Section 30, clauses 1, 2 and 5—Building forts ; Collecting sepoys and stores ; Encroaching on roads : Section 32—Despatches of treasure. |
| 1818, | III ... ... ... | State Prisoners. |
| 1819, | II ... ... ... | Resumption of Revenue-free lands. |
| ,, | VI ... ... ... | Ferries. |
| 1821, | IV ... ... ... | Power of Collectors and Magistrates. |
| 1822, | III ... ... ... | Boards of Land-revenue. |
| ,, | XI ... ... ... | Section 36—Khás management of purchases by Government : Section 38—Non-liability of Government for errors of Courts. |
| 1823, | VI ... ... .. | Indigo Contracts. |
| ,, | VII ... ... | Prohibition of loans to Covenanted Civil Servants. |
| 1825, | VI ... ... ... | Passage of Troops. |
| ,, | IX ... ... ... | Defaulting Málguzárs. |
| ,, | XI ... ... ... | Alluvion and diluvion. |
| ,, | XIII ... ... ... | Settlement of resumed Lákhiráj land. |
| ,, | XIV ... ... ... | Authority to confirm Lákhiráj tenures : Native grants. |
| 1827, | III ... ... ... | Section 5—Evidence. |
| ,, | V ... ... ... | Management of Estates under attachment. |
| 1828, | III ... ... ... | Appeals from decisions of Revenue Authorities. |
| ,, | IV ... ... ... | Section 1 and Section 2, clause 4—Time during which Collectors are to be considered engaged in making settlement. |
| 1829, | I ... ... .. | Commissioners of Revenue and Board of Revenue. |
| ,, | XVII ... ... ... | Widow-burning. |
| 1830, | V ... ... ... | Sections 1 and 5—Indigo Contracts. |

(*b*).—ACTS OF THE SUPREME COUNCIL RELATING TO THE LOWER PROVINCES.

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1836, | X ... ... ... | Indigo Contracts. |
| ,, | XX ... ... ... | Batwáras. |
| ,, | XXI ... ... ... | Creating Zilas. |
| 1838, | XI ... ... .. | Remuneration of Amins effecting Partitions. |
| 1841, | XII ... ... ... | Section 2—No Interest on Arrears of Land-revenue. |
| 1847, | IX ... ... ... | Assessment of new lands. |
| 1848, | XX ... ... ... | Land-revenue. |
| 1850, | XLIV ... ... ... | Board of Revenue. |
| 1853, | XIX ... ... ... | Section 26—Recusant witnesses. |
| 1855, | XXXII ... ... ... | Embankments. |
| 1856, | XII ... ... ... | Civil Court Amins. |
| ,, | XX ... ... ... | Chaukidárs. |
| ,, | XXI ... ... ... | Abkári. |
| 1857, | XIII ... ... ... | Opium. |
| 1858, | XXXI ... ... ... | Settlement of Alluvion. |
| ,, | XL ... ... ... | Minors. |
| 1859, | XI ... ... ... | Sales for Arrears of Revenue. |
| 1860, | XXIII ... ... ... | Abkari. |

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## FIFTH SCHEDULE.

(*See Section* 7).

(*a*).—BENGAL REGULATIONS (NORTH-WESTERN PROVINCES).

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1793, | XXXVIII ... ... ... | Section 1, Preamble : Section 2—Prohibition of loans by Covenanted Servants. |
| 1798, | I ... ... ... | Conditional sales of land. |
| 1799, | V ... ... ... | Wills and administration to Natives. |
| 1804, | X ... ... ... | Punishment by Courts Martial of certain State Offences. |
| 1806, | XI ... ... .. | Passage of Troops. |
| ,, | XVII ... ... ... | Sections 7 and 8—Mortgages and conditional sales. |
| 1810, | XIX ... ... ... | Maintenance and Repair of Bridges, &c. ; Escheats. |
| ,, | XX ... ... ... | Camp-followers, Bazárs, Cantonments. |
| 1812, | XI ... ... ... | Removal of Foreign Emigrants. |
| 1817, | V ... ... ... | Hidden Treasure. |
| 1818, | III ... ... ... | State Prisoners. |
| 1819, | VI ... ... ... | Ferries. |
| 1822, | XI ... ... ... | Section 38—Non-liability of Government for errors of Courts. |
| | ... ... | |
| 1823, | VI ... ... ... | Indigo Contracts. |
| ,, | VII ... ... ... | Prohibition of loans to Covenanted Civil Servants. |
| 1825, | VI ... ... ... | Passage of Troops. |
| ,, | XI ... ... ... | Alluvion and Dereliction. |
| ,, | XX ... ... ... | Courts Martial and Courts of Requests. |
| 1827, | III .. ... ... | Section 5—Evidence. |
| ,, | V ... ... ... | Management of Estates under Attachment. |
| 1829, | XVII ... ... ... | Widow-burning. |
| 1830, | V ... ... ... | Sections 1 and 5—Indigo Contracts. |
| 1831, | VI ... ... ... | Section 6—Sadr Adalat. |
| ,, | XI ... ... ... | Sections 1, 2, 4, 5, 6, 8—Police-powers of Tahsildars. |
| 1833, | IX ... ... | Deputy Collectors. |

(*b*).—ACTS OF THE SUPREME COUNCIL RELATING TO THE NORTH-WESTERN PROVINCES.

| YEAR AND NUMBER. | | SUBJECT. |
|---|---|---|
| 1836, | X ... ... ... | Indigo Contracts. |
| ,, | XXI ... ... ... | Creating Zilas. |
| 1853, | XIX ... ... ... | Section 26—Recusant witnesses. |
| 1854, | XVI ... ... ... | Police. |
| 1856, | XII ... ... ... | Civil Court Amins. |
| ,, | XX ... ... ... | Chaukidars. |
| 1857, | XIII ... ... ... | Opium. |
| 1858, | XL ... ... ... | Minors. |

## SIXTH SCHEDULE

(*See Sections* 2, 3, 4, 5, 6 *and* 7.)

### PART I.

SCHEDULED DISTRICTS, MADRAS.

I.—*In Ganjam.*

(1). The Gumsur Maliahs, including Chokapad.
(2). The Surada Maliahs.
(3). The Chinna Kimedi Maliahs.
(4). The Pedda Kimedi Maliahs.
(5). The Bodaguda Maliahs.
(6). The Surangi Maliahs.
(7). The Parla Kimedi Maliahs.
(8). The Muttás of Korada and Ronaba (otherwise called Srikarma).
(9). The Chighatti Maliah.
(10). The Jurada Maliah.
(11). The Jalantra Maliah.
(12). The Mandasa Maliah.
(13). The Budarasinghi Maliah.
(14). The Kuttingia Maliah.

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II.—*In Vizagapatam.*

(1). The Jeypur Zamindari,
(2). Golconda Hills, west of the River Boderu.
(3). The Madugol Maliahs.
(4). The Kasipur Zamindari.
(5). The Panchipenta Maliahs.
(6). Mondemkolla, in the Merangi Zamindari.
(7). The Konda Kutta of Belgam.
(8). The Gumma and Konda Muttás of Kurpam.
(9). The Kottam, Rám, and Konda Muttás of Pálkonda.

III.—*In the Godavari District.*

(1). The Bhadráchalam Taluq.
(2). The Rakapilli Taluq.
(3). The Rampa Country.

IV.—*In the Indian Ocean.*

The Laccadive Islands, including Minicoy.

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PART II.

SCHEDULED DISTRICTS, BOMBAY.

I.—The Province of Sindh.
*II.—The Panch Mahals.**
III.—Aden.
IV.—The villages belonging to the following Mehwassi chiefs :—
(1). The Parvi of Káthi.
(2). The Pàrvi of Nal.
(3). The Parvi of Singhpur.
(4). Walwi of Gaohalli.
(5). The Wassáwa of Chikhli.
(6). The Párvi of Nawalpur.

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PART III.

SCHEDULED DISTRICTS, BENGAL.

I.—The Jalpaigori and Darjeeling Divisions.
II.—The Hill tracts of Chittagong.
III.—The Santhál Parganas.
IV.—The Chutià Nagpur Division.
V.—The Mahals of Angul and Banki.

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PART IV.

SCHEDULED DISTRICTS, NORTH-WESTERN PROVINCES.

I.—The Jhánsi Division, comprising the Districts of Jhánsi, Jalaun and Lalatpur.
II.—The Province of Kumáon and Gharwál.
III.—The Terai Parganas, comprising—Bazpur, Kashipur, Jaspur, Rudarpur, Gadarpur, Kilpuri, Nának-Mátta and Bilheri.
IV.—In the Mirzápur District :—
(1). The tappás of Agori Khás and South Kon in the Pargana of Agori.
(2). The tappá of British Singrauli in the Pargana of Singrauli.
(3). The tappás of Phulwá, Dudhi and Barhà in the Pargana of Bichipár.
(4). The portion lying to the South of the Kaimor Range.

V. * * * * * * * *
VI. The tract of country known as Jaunsar Báwar in the Dehra Dun District.

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PART V.

SCHEDULED DISTRICTS, PUNJAB.

The Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan, Dera Ghazi Khan, Lahaul, and Spiti.

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* See Act. VII of 1885, Section 4.

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PART VI.

SCHEDULED DISTRICTS, CENTRAL PROVINCES,

*Chhattisgarh Zamindaris.*

1. Khariár.
2. Bindra Nowágarh.
3. Sahezpúr.
4. Gándái.
5. Silhetí.
6. Barbaspúr.
7. Thákurtolá.
8. Lohárá.
9. Gondardehí.
10. Fingeswar.
11. Pándariá.
12. Pendrá.
13. Mátín.
14. Uprorá.
15. Kendá.
16. Láphá.
17. Chhúrí.
18. Korbá.
19. Chapá.
20. Borá Sámbhar.
21. Phuljhar.
22. Kolábirá.
23. Rámpúr.

*Chanda Zamindaris.*

1. Ahírí.
2. Ambágarh Chaukí.
3. Aundhí.
4. Dhanorá.
5. Dúdhmálá.
6. Gewardá.
7. Jhárápáprá.
8. Khutgáon.
9. Korâchá.
10. Kotgal.
11. Muramgáon.
12. Pánábáras.
13. Palasgarh.
14. Rángi.
15. Sirsundi.
16. Sonsari.
17. Chándálá.
18. Gilgáon.
19. Páwí Mutándá.
20. Pategáon.

*Chhindwara Jagirdaris.*

1. Harai.
2. Chháter.
3. Gorakhghat.
4. Gorpáni.
5. Baktágarh.
6. Bardágarh.
7. Pachmarhí.
8. Partábgarh.
9. Almod.
10. Sonpúr.
11. Bariám Pagárá.

PART VII.

The Chief Commissionership of Coorg.

PART VIII.

The Chief Commissionership of the Andaman and Nicobar Island.

PART IX.

The Chief Commissionership of Ajmer and Mairwára.

PART X.

The Chief Commissionership of Assam.

PART XI.

The Hill Tracts of Arakan.

PART XII.

The Pargana of Mánpur.

PART XIII.

The Cantonment of Morar.

## ACT No V of 1875.

(*Passed on the 9th February* 1875).

An Act to remove doubts as to the rights and liabilities of certain Native Soldiers.

Preamble.

Whereas doubts have arisen as to the rights and liabilities of certain Native Soldiers who have been enrolled without having been attested, and it is expedient to remove such doubts; It is hereby enacted as follows :—

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Validation of enlistment of certain Native soldiers.

1. Every person who has, for the space of six months, been in the receipt of military pay and been borne on the rolls of any Regiment, Corps, Depôt, Ordnance Establishment, or Department of Her Majesty's Indian Army (of which the last pay-statment, if produced, shall be evidence), shall be deemed to have been duly enlisted, enrolled, and attested, and shall not be entitled to claim his discharge on the ground of illegality or irregularity in his enlistment, enrolment or attestation, or on any other ground save such as may be recognized by the orders and customs of the service.

## ACT No. IX of 1875.

(*Passed on the 2nd March* 1875).

An Act to amend the Law respecting the age of Majority.

Preamble.

Whereas in the case of persons domiciled in British India, it is expedient to prolong the period of nonage, and to attain more uniformity and certainty respecting the age of majority than now exists ; It is hereby enacted as follows :—

Short title.

1. This Act may be called " The Indian Majority Act, 1875 :"

Local extent.

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty ;

Commencement and operation.

and it shall come into force and have effect on the expiration of three months from the passing thereof.

2. Nothing herein contained shall affect—

(*a*) the capacity of any person to act in the following matters (namely),—Marriage, Dower, Divorce and Adoption ;

(*b*) the religion or religious rites and usages of any class of Her Majesty's subjects in India, or

(*c*) the capacity of any person who before this Act comes into force has attained majority under the law applicable to him.

Age of majority of persons domiciled in British India.

3. Subject as aforesaid, every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any Court of Wards shall, notwithstanding anything contained in the Indian Succession Act (No. X of 1865) or in any other enactment, be deemed to have attained his majority when he shall have completed his age of twenty-one years and not before :

Subject as aforesaid, every other person domiciled in British India shall be deemed to have attained his majority when he shall have completed his age of eighteen years and not before.

Age of majority how computed.

4. In computing the age of any person, the day on which he was born is to be included as a whole day, and he shall be deemed to have attained majority, if he falls within the first paragraph of section three, at the beginning of the twenty-first anniversary of that day, and if he falls within the second paragraph of section three, at the beginning of the eighteenth anniversary of that day.

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*Illustrations.*

(*a*) Z is born in British India on the first day of January 1850, and has a British Indian domicile. A guardian of his person is appointed by a Court of Justice. Z attains majority at the first moment of the first day of January 1871.

(*b*) Z is born in British India on the twenty-ninth day of February 1852, and has a British Indian domicile. A guardian of his property is appointed by a Court of Justice. Z attains majority at the first moment of the twenty-eighth day of February 1873.

(*c*) Z is born on the first day of January 1850. He acquires a domicile in British India. No guardian is appointed of his person or property by any Court of Justice, nor is he under the jurisdiction of any Court of Wards. Z attains majority at the first moment of the first day of January 1868.

## ACT No. X of 1875.

(*Passed on the 9th March 1875*).

An Act to regulate the Procedure of the High Courts in the exercise of their original criminal jurisdiction.

* * * * * *

Advocate General may exhibit informations.

**144.** The Advocate General may, with the previous sanction of the Governor-General in Council or the Local Government, exhibit to the local High Court, against persons subject to the jurisdiction of the said Court, informations for all purposes for which Her Majesty's Attorney-General may exhibit informations on behalf of the Crown in the Court of Queen's Bench or Exchequer.

Such proceedings may be taken upon every such information as may lawfully be taken in case of similar informations, filed by Her Majesty's Attorney-General in England, so far as the circumstances of the case and the course and practice of proceeding in the said High Courts, respectively, will admit.

All fines, penalties, forfeitures, debts and sums of money recovered or levied under or by virtue of any such information shall belong to the Government of India.

* * * * * *

Power to enter *nolle prosequi*.

**146.** At any stage of any proceeding under this Act, before the return of the verdict, the Advocate-General may, if he think fit, inform the Court on behalf of Her Majesty that he will not further prosecute the defendant upon the information or charge; and thereupon all proceedings on such information or charge against the defendant shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal.

NOTE.—Act X of 1882 repeals the whole of the above Act except Section 144 and so much of Section 146 as relates to informations.

## ACT No. XIII of 1875.

(*Passed on the 15th March 1875*).

An Act to amend the law relating to Probates and Letters of Administration.

Preamble.

Whereas, under the Indian Succession Act, 1865, the effect of an unlimited grant of probate or letters of administration made by any Court in British India is confined to the Province in which such grant is made: And whereas it is expedient to extend over British India the effect of such grants when made by a High Court: And whereas it is also expedient to amend the Court Fees Act, 1870, as to probates, letters of administration, and certificates of administration: It is hereby enacted as follows:—

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Addition to Act No. X of 1865, Section 3.

1. To Section 3 of the Indian Succession Act, 1865, the following words shall be added (namely) :—" and for the purposes of Sections 242, 242A, 246A, and 277A, shall include the Court of the Recorder of Rangoon.

Addition to Act No. X of 1865, Section 242.

2. To Section 242 of the Indian Succession Act, 1865, the following proviso shall be added (namely) :—

Effect of unlimited probates, &c., granted by High Court.

"Provided that probates and letters of administration granted by a High Court after the first day of April, 1875, shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

Addition to Act No. X of 1865.

3. The following section shall be inserted after the said proviso (namely):—

(See S. 242A, *ante*, p. 263).

Addition after Section 246 of Act X of 1865.

4. After Section 246 of the Indian Succession Act, 1865, the following section shall be inserted (namely ) :—

(See S. 246A, *ante*, p. 265).

Addition after Section 277 of Act X 1865.

5. After Section 277 of the Indian Succession Act, 1865, the following section shall be inserted (namely ) :—

(See S. 277A, *ante*, p. 272).

Addition to Act No. VII of 1870.

6. After section nineteen of the Court Fees Act, 1870, the following chapter shall be inserted (namely ):—

(See Chapter III A, *ante*, p. 454).

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NOTE.—See Act II of 1877.

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## ACT No. XV of 1875.

(*Passed on the* 15*th July* 1875).

An Act to amend the Punjab Laws Act, 1872.

Preamble.

Whereas, in order to provide for the establishment of Rural Police and for the more efficient administration of law in the Punjab, it is expedient to amend the Punjab Laws Act, 1872 ; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Punjab Laws Amendment Act, 1875."

Local extent.

It extends to the territories for the time being under the Government of the Lieutenant-Governor of the Punjab ;

Commencement.

And it shall come into force at once.

NOTE.—This Act consists of the above section and two others. The latter have been incorporated in their proper places with Act IV of 1872, and it is unnecessary to reprint them here.

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## Act No. XVIII of 1875.

(*Passed on the 13th October* 1875).

An Act for the improvement of Law Reports.

Preamble.

Whereas it is expedient to diminish the multitude and expense of the law reports published in British India, and to improve their quality : And whereas, with a view to furthering these objects, the Governor-General in Council proposes to authorize the publication of reports of cases decided by the High Courts of Judicature established under the 24th & 25th of Victoria, Chapter 104 ; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Indian Law Reports Act, 1875.

Local extent.

It extends to the whole of British India ;

Commencement.

And it shall come into force on such day as the Governor-General in Council notifies in this behalf in the *Gazette of India.*

NOTE.—The Act came into force on the 1st January 1876.—(See *Government of India Notification No.* 22, *dated* 23*rd November* 1875, *Gazette of India of* 27*th idem*).

2. *Repealed by Act XII of* 1876.

Authority given only to authorized reports.

3. No Court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor-General in Council.

Authority of judicial decisions.

4. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed.

NOTE.—For rules regarding the publication of the Indian Law Reports, see *Government of India Notification No.* 14, *dated* 7*th August* 1885, *Gazette of India of* 8*th idem, Part I, page* 431.

## ACT No. V of 1876.

(*Passed on the* 29*th February* 1876).

An Act to provide Reformatory Schools.

Preamble.

Whereas it is expedient to provide Reformatory Schools for male youthful offenders ; It is hereby enacted as follows :—

*I.—Preliminary.*

Short title.

1. This Act may be called "The Reformatory Schools Act, 1876" :

Local extent.

It extends to the whole of British India ;

Commencement.

And it shall come into force in each Province of British India on such day as the Local Government by notification in the official Gazette directs in that behalf.

NOTE.—The Act has never been brought into force in the Punjab. See Judicial Circular No. LXIII.

Section 318 of Code of Criminal Procedure repealed.

2. On and from that day Section 318 of the Code of Criminal Procedure shall be repealed therein.

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Interpretation-clause.

3. In this Act—

"Youthful offender." "Youthful offender" means any boy who, being at the time under the age of sixteen years, has been convicted of any offence punishable with imprisonment or transportation :

"Inspector-General." "Inspector-General" includes any officer appointed by the Local Government to perform all or any of the duties imposed by this Act on the Inspector of Jails.

*II.—Reformatory Schools.*

Power to establish and discontinue Reformatory Schools.

4. With the previous sanction of the Governor-General in Council, the Local Government may—

(*a*) establish Reformatory Schools at such places as it thinks fit,

(*b*) use as Reformatory Schools schools kept by persons willing to act in conformity with such rules consistent with this Act as the Local Government may, from time to time, prescribe in this behalf,

(*c*) direct that any school so established or used shall cease to exist as a Reformatory School or to be used as such.

Requisites of schools.

5. Every school so established or used must provide—

(*a*) sufficient means of separating the inmates at night ;

(*b*) proper sanitary arrangements, water-supply, food, clothing, and bedding for the youthful offenders detained therein ;

(*c*) the means of giving such offenders industrial training ;

(*d*) an infirmary or proper place for the reception of such offenders when sick.

Inspection of schools.

6. Every Reformatory School shall, before being used as such, be inspected by the Inspector-General of Jails; and if he reports that the requirements of section five have been complied with, and that, in his opinion, such school is fitted for the reception of such youthful offenders as may be sent there under this Act, he shall certify to that effect, and such certificate shall be published in the local official Gazette, and the school shall thereupon be deemed a Reformatory School.

Every such school shall, from time to time, and at least once in every year, be visited by the said Inspector-General, who shall send to the Local Government a report on the condition of the school in such form as the Local Government may from time to time prescribe.

Power of Courts to direct youthful offenders to be sent to Reformatories.

7. Whenever any youthful offender is sentenced to transportation or imprisonment, and is in the judgment of the Court by which he is sentenced (*a*) under the age of sixteen years, and (*b*) a proper person to be an inmate of a Reformatory School, the Court may direct that, instead of undergoing his sentence, he shall be sent to a Reformatory School, and be there detained for a period which shall be not less than two years and not more than seven years, and which shall be in conformity with any rules made under section twenty-two and for the time being in force.

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The powers so conferred on the Court shall be exercised only by (*a*) the High Court, (*b*) the Court of Session, (*c*) a Magistrate of the first class, and (*d*) a Magistrate of Police or Presidency Magistrate in the towns of Calcutta, Madras and Bombay.

Power of Magistrates to direct boys under sixteen sentenced to imprisonment to be sent to Reformatories.

8. Whenever any youthful offender under the age of sixteen years has been or shall be sentenced to imprisonment, the officer in charge of the Jail in which such offender is confined may bring him before the Magistrate within whose jurisdiction such Jail is situate; and the Magistrate, if he thinks the offender (*a*) under the age of sixteen years, and (*b*) a proper person to be an inmate of a Reformatory School, may direct him to be sent to a Reformatory School, and to be there detained for a period which shall be not less than two and not more than seven years, and which shall be in conformity with any rules made under section twenty-two and for the time being in force.

"Magistrate" defined.

In this section "Magistrate" means in the towns of Calcutta, Madras and Bombay, a Magistrate of Police or Presidency Magistrate, and elsewhere a Magistrate of the first class.

Government to determine Reformatory to which such offenders shall be sent.

9. Every youthful offender so directed by a Court or Magistrate to be sent to a Reformatory School shall be sent to such Reformatory School as the Local Government may, from time to time, appoint for the reception of youthful offenders so dealt with by such Court or Magistrate.

Boys above eighteen not to be detained in school.

10. Nothing contained in section seven, eight, or nine shall be deemed to authorize the detention in a Reformatory School of any person after he is proved to be above the age of eighteen years.

Discharge or removal by order of Government.

11. The Local Government may at any time order any youthful offender—

(*a*) to be discharged from a Reformatory School;

(*b*) if so discharged before the expiration of his sentence, to undergo the residue of such sentence at such place as the Local Government thinks fit; or

(*c*) to be removed from one Reformatory School to another such school situate within the territories subject to such Government, but so that the whole period of his detention in a Reformatory School shall not be increased by such removal.

### *III.—Management of Reformatory Schools.*

Appointment of Superintendent and Committee of Visitors or Board of Management.

12. For the control and management of every Reformatory School, the Local Government shall appoint either (*a*) a Superintendent and a Committee of Visitors, or (*b*) a Board of Management.

Every Committee and every Board so appointed must consist of not less than five persons, of whom two at least shall be Natives of India.

The Local Government may, from time to time, suspend or remove any Superintendent or any Member of a Committee or Board so appointed.

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Superintendent may license youthful offenders to employers of labour.

**13.** Every Superintendent so appointed may permit any youthful offender sent to a Reformatory School who has attained the age of fourteen years, by license under his hand, to live under the charge of any trustworthy and respectable person named in the license, or any officer of Government or of a Municipality, being an employer of labour and willing to receive and take charge of him, on the condition that the employer shall keep such offender employed at some trade, occupation, or calling.

The license shall be in force for three months and no longer, but may, at any time before the expiration of the period for which the offender has been directed to be detained, be renewed from time to time for three months.

Cancellation of license.

**14.** The license shall be cancelled at the desire of the employer named in the license;

and if it appears to the Superintendent that any complaint made by the employer of misconduct on the part of the youthful offender is just, no other license in respect of the same offender shall be given until twelve months after the expiration of the former license.

If complaint of employers just, no fresh license until expiry of twelve months.

Determination of license.

**15.** If during the term of the license the employer named therein die, or cease from business, or the period for which the youthful offender has been directed to be detained in the Reformatory School expires, the license shall thereupon cease and determine.

Cancellation of license in case of ill-treatment.

**16.** If it appears to the Superintendent that the employer has ill-treated the offender, or has not adequately provided for his lodging and maintenance, the Superintendent may cancel the license.

Superintendent to be deemed guardian of youthful offenders.

**17.** The Superintendent of any Reformatory School shall be deemed to be the guardian of every youthful offender detained in such school, within the meaning of Act No XIX of 1850 (*concerning the binding of apprentices*);

and if it appear to the Superintendent that any such offender licensed under section thirteen has behaved well during one or more periods of his license, the Superintendent may apprentice him under the provisions of the said Act, and on such apprenticement the right to detain such offender in the School shall cease, and the unexpired term (if any) of his sentence shall be cancelled.

Power to apprentice youthful offender.

Duties of Committee of Visitors.

**18.** Every Committee of Visitors appointed under section twelve for any Reformatory School shall, at least once in every month,

(*a*) visit the school, to hear complaints and see that the requirements of section five have been complied with, and that the management of the school is proper in all respects,

(*b*) examine the punishment-book,

(*c*) bring any special cases to the notice of the Inspector-General, and

(*d*) see that no person is illegally detained in the school.

Powers of Board of Management.

**19.** If in exercise of the power conferred by section twelve, the Local Government appoints a Board of Management for any Reformatory School, such Board shall have the powers and perform the functions of the Superinten-

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dent under sections thirteen to seventeen, both inclusive; and the license mentioned in section thirteen may be under the hand of their chairman; and they shall be deemed to be the guardians of the youthful offenders detained in such school.

Power to appoint trustees or other managers of a school to be a Board of Management.

20. The Local Government may declare any body of Trustees or Managers of a school, who are willing to act in conformity with the rules referred to in section four, clause (*b*), to be a Board of Management under this Act, and thereupon such body or Managers shall have all the powers and perform all the functions of such Board of Management.

Power of Board to make rules.

21. With the previous sanction of the Local Government, every Board of Management of a Reformatory School may from time to time make rules consistent with this Act to regulate—

(*a*) the conduct of business of the Board,

(*b*) the management of the school,

(*c*) the education and industrial training of youthful offenders,

(*d*) visits to and communication with youthful offenders,

(*e*) punishment for offences committed by youthful offenders,

(*f*) the granting of licenses for employment of youthful offenders.

In the absence of a Board of Management, the Local Government may, from time to time, make rules consistent with this Act to regulate for any Reformatory School the matters mentioned in clauses (*b*), (*c*), (*d*), (*e*) and (*f*) of this section, and also the mode in which the Committee of Visitors shall conduct their business.

Power of Government of India to make rules.

22. The Governor-General in Council may, from time to time, make rules consistent with this Act for regulating the periods for which Courts and Magistrates may send youthful offenders to Reformatory Schools according to their ages, the nature of their respective offences, or other considerations.

All rules made under this section shall be published in the *Gazette of India*.

*IV.—Offences in relation to Reformatory Schools.*

Penalty for abetting escape of youthful offenders.

23. Whoever abets an escape, or an attempt to escape, on the part of a youthful offender from a Reformatory School, or from the employer of such offender, shall be punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one hundred rupees, or with both.

Arrest of escaped youthful offenders.

24. A Police officer may, without orders from a Magistrate, and without a warrant, arrest any youthful offender sent to a Reformatory School under this Act, who has escaped from such school, or from his employer, and take him back to such school or to his employer.

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## ACT No. IX of 1876.

(*Passed on 28th March* 1876).

An Act to enable the Government of India to declare certain coins of Native States to be a legal tender in British India.

Preamble.

Whereas it is expedient to enable the Governor-General in Council to declare that a tender of payment of money, if made in certain coins made for or issued by Native States, shall be a legal tender in British India; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Native Coinage Act, 1876."

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force at once.

Interpretation-clause.

2. In this Act "Native State" means any State in India which is under the protection or political control of Her Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

Power to declare that the coins of a Native State shall be legal tender.

3. Subject to the provisions of section four, the Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare that a tender of payment of money, if made in the coins, or the coins of any specified metal, made under this Act for any Native State, shall be a legal tender in British India;

and the provisions of the Indian Coinage Act, 1870, shall apply to the coins to which such notification refers, so far as such provisions are applicable thereto, and save as expressly provided by such notification.

NOTE.—See Note at end of Act.

When such power may be exercised.

4. The power conferred by the first clause of section three shall be exercisable only when the coins referred to in such notification comply with the following conditions (that is to say)—

in the case of coins of gold, silver, or bronze,

(*a*) their fineness is identical with that for the time being prescribed by law for coins of the Government of India of the same metal;

in the case of coins whether of gold, silver, bronze, or copper,

(*b*) they are identical in weight with some coins of the Government of India of the same metal, which may for the time being be legally coined at any Mint of the Government of India, or bear such relation thereto as is approved by the Governor-General in Council;

(*c*) the devices upon their obverse and reverse differ from the devices on coins now made or issued by any such Native State, and have been approved by the Governor-General in Council;

(*d*) upon each of such coins its value in money of the Government of India is inscribed in the English language;

(*e*) the Native State for which they are coined has undertaken to abstain, during a term of not less than thirty years from the date of the notification, from coining in its own Mint gold, silver, bronze, or copper as the case may be, and has also undertaken that no coins resembling coins for

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the time being a legal tender in British India shall, after the expiration of the said term, be struck under its authority or with its permission at any place within or without its jurisdiction ;

(*f*) such State has formally declared that a tender of payment of money, if made in coins of the Government of India of the same metal, shall, in the territories subject to such State, be a legal tender in the cases in which payment made in such coins would, under the law for the time being in force, be a legal tender in British India ;

(*g*) such State has also agreed that the law and rules for the time being in force respecting the cutting and breaking of coin of the Government of India reduced in weight by reasonable wearing or otherwise, or counterfeit, or called in by proclamation, shall apply to the coins made for such State under this Act, and that it will defray the cost of cutting and breaking them ; and

(*h*) such State has also agreed not to issue the same coins below their nominal value, and not to allow any discount or other advantage to any person in order to bring them into circulation.

Native States authorised to send metal to British India Mint for coinage.

5. It shall be lawful for any such State to send to any Mint in British India metal to be made into coin under this Act ; and, subject to the Mint-rules for the time being in force, and to the provisions hereinafter contained, the Mint-Master shall receive such metal and convert it into coin, provided that it be fit for coinage.

Nothing herein contained shall be deemed to entitle any such State to have coins made under this Act at any Mint of the Government of India of any metal which is not for the time being legally coined at such Mint.

Power to impose a charge for coinage.

6. The Governor-General in Council may impose on any metal sent to a mint for coinage under this Act the duty (if any) leviable on the same metal under the Indian Coinage Act, 1870, and also a charge sufficient to defray the expenses of coinage over and above the expenses of assay and refining ; and the Mint-Master shall coin such metal at the charge so imposed.

Power to limit number of coins to be made under this Act for any Native State.

7. The Governor-General in Council may, from time to time, with reference to the reasonable requirements of the population of any Native State, fix the maximum number of any coins of any particular metal that shall be coined under this Act.

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NOTE.—Whereas His Highness the Maharao Raja of Alwar (Alwar being a Native State within the meaning of the Native Coinage Act, 1876) has, pursuant to the authority contained in Section 5 of the said Act, sent to the Mint of Calcutta silver to be coined under the said Act into two lakhs of rupees, and has requested the Governor-General of India in Council to declare that a tender of payment of money, if made in the said coins, shall be a legal tender in British India : And whereas the said silver has been coined into rupees and their fineness is identical with that prescribed by law for rupees of the Government of India, and they are identical in weight with the rupees of the Government of India, and the devices upon their obverse and reverse differ from the devices on coins now made or issued by the said State, and have been approved by the Governor-General in Council, and upon each of such rupees its value in money of the Government of India is inscribed in the English language : And whereas His Highness the said Maharao Raja of Alwar has for himself and his successors undertaken to abstain during a term of thirty years from the date of this notification from coining silver in his own Mint, and has also undertaken that no coins resembling silver coins for the time being a legal tender in British India, shall, after the expiration of the said term, be struck under the authority of himself or his successors or with his or their permission at any place within or without his or their jurisdiction : And whereas His Highness the said

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Maharao Raja of Alwar has formally declared that a tender of payment of money if made in silver coins of the Government of India shall, in the territories subject to His Highness be a legal tender in cases in which payment made in such coins would, under the law for the time being in force, be a legal tender in British India: And whereas His Highness the said Maharao Raja of Alwar has agreed for himself and his successors that the law and rules for the time being in force respecting the cutting and breaking of coin of the Government of India reduced in weight by reasonable wearing or otherwise, or counterfeit, or called in by proclamation, shall apply to the coins made for the said State under the said Act, and that the said State will defray the cost of cutting and breaking them: And whereas His Highness the said Maharao Raja of Alwar has also agreed for himself and his successors not to issue the said coins below their nominal value, and not to allow any discount or other advantage to any person in order to bring them into circulation: And whereas His Highness the said Maharao Raja of Alwar has also agreed for himself and his successors that if at any time the Government of India calls in its coinage of rupees, His Highness or his successors will, if so requested by the Government of India, call in, at his or their own expense, all the said rupees so coined for him:

The Governor-General of India in Council, in consideration of the premises and in exercise of the power conferred by the Native Coinage Act, 1876, section three, is pleased to declare that a tender of payment of money, if made in the said rupees coined under the said Act for the said State of Alwar, shall, subject to the provisions of the Indian Coinage Act, 1876, be a legal tender in British India.—(*Government of India No.* 557*F.*, *dated* 9*th November* 1877).

A similar notification has been issued regarding copper coins made under the Act for circulation in the state of Dhar.—(*No.* 171—*I*, *dated* 13*th January* 1888, *Gazette of India of* 14*th idem*, *Part I*, page 18).

## ACT No. XI of 1876.

(*Passed on the* 11*th April* 1876).

An Act for constituting and regulating the Banks of Bengal, Madras, and Bombay.

Preamble.

Whereas the Bank of Bengal is now constituted and regulated by Act No. IV of 1862, as amended by Acts No. VI of 1862 and No. XIX of 1870, and its capital consists of twenty-two millions of rupees, in shares of one thousand rupees each;

And whereas the Bank of Madras is now constituted and regulated by Madras Act No. VI of 1866, as amended by Madras Act No. I of 1871, and its capital consists of five millions six hundred and twenty-five thousand rupees, in shares of one thousand rupees each;

And whereas a Bank named the Bank of Bombay was constituted and regulated by Bombay Act No. X of 1863, as amended by Bombay Acts No. XV of 1866 and No. I of 1867; but such Bank has been wound up, and the said Bombay Acts are now obsolete and should be expressly repealed;

And whereas on the tenth day of December 1867, a joint-stock Banking Company was registered and incorporated at Bombay, by virtue of the Indian Companies' Act, 1866, under the name of "The New Bank of Bombay, Limited," with a Memorandum of Association and Articles of Association then also registered, and prescribing the constitution and regulations for the management of such Bank;

And whereas the Government of India now holds two thousand two hundred shares in the said Bank of Bengal, and five hundred and sixty-two and a half shares in the said Bank of Madras; and under the provisions of the said Act No. IV of 1862 and Madras Act No. VI of 1866, is bound to appoint, and has power to remove, certain of the directors of the said Banks of Bengal and Madras respectively, and has also power to give a proxy to any person whom the Governor-General in Council may appoint, to attend and vote at any meeting of the proprietors of each of the same Banks;

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And whereas the Government of India has determined to sell its said shares and to surrender its said powers ; and it is expedient to relieve the said Government from the said duty of appointing directors, and to repeal the said enactments and to consolidate such of them as relate to the said Banks of Bengal and Madras respectively, with the changes rendered necessary or desirable by such sale, surrender, and relief ;

And whereas it is expedient to reduce the said capital of the Bank of Bengal by two millions of rupees and to reduce the said capital of the Bank of Madras by six hundred and twenty-five thousand rupees, and to divide the capital so reduced of each of the same Banks into shares of five hundred rupees each ;

And whereas it is expedient that the said New Bank of Bombay, Limited, should be reconstituted and regulated, in manner in this Act provided, under the name of the Bank of Bombay ;

It is hereby enacted as follows :—

## CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Presidency Banks Act, 1876 ;"

Commencement.

And it shall come into force on the first day of May 1876.

Repeal of enactments.

2. On and from that day the Statute specified in the first part of the schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof, and the Acts specified in the second, third, and fourth parts of the same schedule shall be wholly repealed. But all bye-laws and regulations made under any such Act, and then in force, shall, so far as they are consistent with this Act, be deemed to have been made hereunder.

References in Act X of 1866.

The references made in the Indian Companies Act, 1866, to the Bank of Bengal, the Bank of Madras, and the Bank of Bombay, shall be deemed to be made respectively to the Bank of Bengal, the Bank of Madras and the Bank of Bombay as constituted by this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context—

"The Bank" means the Bank of Bengal, the Bank of Madras, or the Bank of Bombay (as the case may be), as constituted and regulated by this Act :

"Capital" means the capital for the time being of the Bank :

"Shares" means the shares for the time being of the capital, and includes also half shares :

"Capital stock" means that part of the capital into which wholly paid-up shares have been converted or consolidated, and in the case of the Bank of Bengal and the Bank of Madras includes the present consolidated stock of such Banks respectively :

"Registered" means registered in the books of the Bank :

"Shareholders" means the duly registered holders from time to time of the shares of the Bank :

"Proprietors" means the duly registered holders from time to time of the capital stock of the Bank :

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"Directors" means the Directors assembled for the purpose of performing any of their functions under this Act:

"Board" means a meeting of the Directors duly called and constituted, or, as the case may be, the Directors assembled at a Board:

"Auditors" and "Secretary" mean those respective officers from time to time of the Bank, and "Secretary" includes a Secretary and Treasurer and a Deputy Secretary:

"General meeting" means the meeting of proprietors or shareholders or both, held annually under section forty-nine; it includes any adjourned holding thereof:

"Special meeting" means a meeting of proprietors or shareholders or both, held for the transaction of some particular business specified in the notice convening the meeting; it includes any adjourned holding thereof:

"Special resolution" means a resolution passed at a special meeting:

"Office" means the office or principal office for the time being of the Bank:

"Goods" includes also bullion, wares, and merchandize:

"Presidency of Fort St. George" means the territories now under the government of the Governor of Fort St. George in Council:

"Presidency of Bombay" means the territories now under the government of the Governor of Bombay in Council: and

"Presidency of Fort William" means all the territories in British India other than the Presidency of Fort St. George and the Presidency of Bombay.

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## CHAPTER II.—CONSTITUTION.

Proprietors and shareholders of present banks to form bodies corporate, with limited liability.

4. The several persons who, when this Act comes into force, are respectively the proprietors and shareholders of the said Bank of Bengal, Bank of Madras, and New Bank of Bombay, Limited (hereinafter called the present Banks), or who shall, at any time thereafter, by virtue of this or any other Act regulating the Bank, become proprietors or shareholders, shall continue and constitute and be bodies corporate with perpetual succession, under the name,

in the case of the proprietors and shareholders of the said Bank of Bengal —of "The Bank of Bengal,"

in the case of the proprietors and shareholders of the said Bank of Madras —of "The Bank of Madras,"

and in the case of the shareholders and proprietors of the said New Bank of Bombay, Limited—of "The Bank of Bombay,"

and shall respectively possess and enjoy all the rights, powers, and immunities incident by law to a corporation aggregate; subject, nevertheless, to the provisions of this or any other Act for the time being in force regulating the Bank,

and in particular, the proprietors of the Bank shall not be liable for its debts and engagements, and the shareholders of the Bank shall be so liable only to the extent of their shares not fully paid up.

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The several persons who are then proprietors and shareholders of each of the present Banks of Bengal and Madras, or the executors or administrators of such proprietors and shareholders respectively, shall be entitled to be registered as proprietors and holders of a like quantity of stock and a proportionate number of shares, as is or are then registered in their names respectively, or in the names of the persons whom they represent respectively in the books of each of the said present Banks of Bengal and Madras, two shares in the Bank of Bengal as constituted by this Act being deemed equivalent to one share in the present Bank of Bengal, and two shares in the Bank of Madras as constituted by this Act being deemed equivalent to one share in the present Bank of Madras,

Proprietors and shareholders of present Banks to be proprietors and shareholders of new Banks.

and the several persons who are then shareholders of the said New Bank of Bombay, Limited, or the executors or administrators of such shareholders respectively, shall be registered as holders of a like number of shares of the Bank of Bombay as consitituted by this Act as are then registered in their names respectively, or in the names of the persons whom they represent respectively in the books of the said New Bank of Bombay, Limited ; and all such shares upon which the sum of five hundred rupees has then been paid, shall be deemed to have been fully paid up.

5. All the property, moveable and immoveable, and all the securities, claims and demands, and the benefits of all agreements, of or to which the present Banks are or shall be respectively possessed or entitled, or which shall, or but for this Act might be, on the said first day of May 1876, or might at any time thereafter have been, due to, or claimed by, the said Banks respectively, shall, by virtue of this Act become vested in and devolve upon, and may be claimed, made and recovered by,

Property of present Banks to vest respectively in new Banks.

in the case of the said Bank of Bengal,—the Bank of Bengal as constituted by this Act,

in the case of the said Bank of Madras,—the Bank of Madras as constituted by this Act,

and in the case of the said New Bank of Bombay, Limited,—the Bank of Bombay as constituted by this Act ;

and the Bank shall, from and after the said first day of May 1876, be liable and subject to all debts, claims and demands which shall then be due or claimable from, or which, but for this Act, might be then, or might at any time thereafter, have been due or claimable from or made against the said Bank of Bengal, Bank of Madras, or New Bank of Bombay, Limited, as the case may be,

Claims against present Banks.

and no suit or legal proceeding then pending by or against the said Bank of Bengal, Bank of Madras, or New Bank of Bombay, Limited, shall cease, or abate, or become defective, in consequence of this Act, but may be continued and prosecuted by or against the Bank.

6. The transfer of the assets and liabilities of the said New Bank of Bombay, Limited, to the Bank of Bombay, by virtue of this Act, shall operate as a winding-up and liquidation of the said New Bank of Bombay, Limited.

New Bank of Bombay, Limited, wound up.

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No shareholder or creditor of the said New Bank of Bombay, Limited, shall take any proceedings for winding up the same under the Indian Companies Act, 1866, or any Act for the time being in force relating to the winding-up of Companies;

and no person shall make, assert, or take any claims, demands, or proceedings against the same Bank, or the directors or officers thereof, except so far as may be necessary for enforcing the provisions of this or any other Act for the time being in force regulating the Bank of Bombay.

Banks to sue and be sued in corporate name,

7. The Bank shall sue and be sued by its said corporate name;

and use corporate seals;

and shall use such corporate seal as the directors from time to time appoint;

and may as such body corporate acquire and hold, either absolutely or conditionally, for a term or in perpetuity, any property whatsoever, moveable or immoveable, and transfer, assign, and convey the same.

and may hold and transfer property.

Seal how used.

8. The seal of the Bank shall not be affixed to any instrument except in the presence of at least two Directors and of the Secretary and Treasurer, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness.

Unless so signed as aforesaid, such instrument shall be of no validity.

Contracts how made.

9. Contracts may be made on behalf of the Bank as follows:—

(*a*) any contract, which, if made between private persons, would be by law required to be in writing, and, if made according to English law, to be under seal, may be made on behalf on the Bank in writing under its corporate seal, and such contract may be in the same manner varied or discharged:

(*b*) any contract, which, if made between private persons, would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Bank by writing signed by any person acting under the express or implied authority of the Bank, and such contract may in the same manner be varied and discharged:

(*c*) any contract, which, if made between private persons, would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Bank by any person acting under the express or implied authority of the Bank, and such contract may in the same manner be varied and discharged:

and all contracts made according to the provisions herein contained shall be effectual in law and shall be binding upon the Bank and other parties thereto and their legal representatives.

## CHAPTER III.—CAPITAL.

Capital of Bank of Bengal.

10. The capital of the Bank of Bengal shall consist of twenty millions of rupees in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to thirty millions of rupees.

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Capital of Bank of Madras.

The capital of the Bank of Madras shall consist of five millions of rupees, in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to twelve millions of rupees.

Capital of Bank of Bombay.

The capital of the Bank of Bombay shall consist of ten millions of rupees, in shares of five hundred rupees each, divisible into half shares, with power to increase the same, in manner hereinafter provided, to twenty millions of rupees.

Capital of New Bank of Bombay, Limited, to be capital of Bank of Bombay.

11. The capital of the said New Bank of Bombay, Limited, already created, shall, on the first day of May 1876, constitute the capital of the Bank of Bombay, subject to be increased as aforesaid.

Surrender of paid-up shares for stock.

12. Any shareholder may from time to time surrender his wholly paid up shares, or any of them, to the directors, and demand and receive from the Bank, in lieu thereof, capital stock to the amount represented by the shares so surrendered ;

Surrender of stock for shares.

and any proprietor may from time to time surrender his stock, or any portion thereof, to the directors, and demand and receive from the Bank, in lieu thereof, shares to the like amount, or as near thereto as practicable.

Power to increase or reduce capital.

13. The proprietors and shareholders of the Bank may from time to time by special resolution, and with the previous sanction of the Governor-General in Council, increase or reduce the capital of the Bank :

Provided that no such special resolution shall be deemed to have been passed, unless at least one-third in number of the proprietors or shareholders, holding at least one-half of the paid-up capital of the Bank for the time being, be present in person or by proxy, and a majority poll by open voting in favour of the said resolution.

Procedure on resolution to increase capital.

14. When any such special resolution to increase the capital has been passed, the directors may, subject to the provisions of this or any other Act for the time being in force regulating such Bank, and to the special direction (if any) given in reference thereto by the meeting at which such resolution has been passed,

(*a*) make such orders as they think fit for the opening of subscriptions towards such increase of capital by the proprietors and shareholders ;

(*b*) allow to the proprietors and shareholders such period to fill up the subscription as to the directors seems fit ;

(*c*) prescribe the manner in which the proprietors and shareholders shall subscribe and pay into the Bank the proportions of new capital which they may respectively desire to subscribe ; and

(*d*) make such orders as the directors think fit for the disposal and allotment of the amount of new capital that may not be subscribed for and paid up in manner aforesaid :

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Provided that the capital shall not exceed, in the case of the Bank of Bengal, thirty millions of rupees, in the case of the Bank of Madras, twelve millions of rupees, and in the case of the Bank of Bombay, twenty millions of rupees.

Procedure on resolution to reduce capital.

**15.** When any such special resolution to reduce the capital has been passed, the directors may (subject as aforesaid) prescribe the manner in which the reduction shall be carried into effect.

New capital to be subject to provisions of Act.

**16.** Any new capital created under the provisions of section thirteen shall be subject to the provisions of this or any other Act regulating the Bank in force for the time being.

## CHAPTER IV.—Forfeiture of Stock and Shares.

Powers in regard to proprietors or shareholders indebted to Bank.

**17.** If any proprietor or shareholder is indebted to the Bank, the Bank may withhold payment of dividends on the stock or shares of such proprietor or shareholder not being registered as held in trust, or as executor or administrator, and apply them in payment of the debt;

and the Bank may refuse to register the transfer of any such stock or shares until payment of such debt;

and after demand and default of payment, and notice in that behalf given to such proprietor or shareholder, or his constituted agent, or by public advertisement in the local official Gazette, if the debt remain unpaid for the space of three months after such notice, the Bank may advertise in the local official Gazette such stock or shares for sale on a day not less than fifteen days from the publication of such advertisement;

and may, on such day, sell by public auction, and subject to such conditions, if any, as the Bank thinks fit, such stock or shares, or so much or so many thereof as may be necessary, and apply the proceeds thereof in or towards payment of the said debt, with interest, from the day appointed for the payment of such debt to the time of actual payment, at such rate as may have been agreed upon, or, in the absence of such agreement, at the highest rate current for advances by way of local discounts by the Bank;

and shall pay over the surplus, if any, to such proprietor or shareholder or to his lawful representative.

## CHAPTER V.—Certificates, Transfer, and Transmission of Shares and Stock.

Certificates for shares.

**18.** Every shareholder shall be entitled to a certificate, under the corporate seal of the Bank, and signed by two Directors and the Secretary and Treasurer, specifying the shares held by him, and in the case of shares which are not wholly paid up, the amount paid thereon;

and any holder of more than one-half share may, at his option, demand a certificate for each such half share, or one or more certificates for all or any of such half shares, and such certificate or certificates shall be delivered to him accordingly: Provided that the number of such certificates shall in no case exceed the number of half shares in respect of which they are so delivered.

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Receipts for stock.

Every proprietor of capital stock shall be entitled to a receipt signed by two directors and the Secretary and Treasurer, and specifying the amount of stock held by him, and any such proprietor may, at his option, demand one receipt for the whole of the stock, or separate receipts for any portions of the stock, so held by him, and such receipt or receipts shall be delivered to him accordingly: Provided that no receipt shall be delivered for a portion of stock less than two hundred and fifty rupees.

Fees for certificates and receipts.

For every certificate and receipt delivered under this section, there shall be paid such fee as may for the time being be prescribed under section sixty-three, clause (*k*): Provided that no fee shall be payable for certificates or receipts delivered to the persons referred to in section four for shares in or stock of the Bank.

Certificates and receipts to be evidence.

Every such certificate and receipt shall be *primâ facie* evidence of the title of the shareholder or proprietor to the shares or stock therein specified.

Stock and shares to be moveable property.

**19.** The stock and shares of every proprietor and shareholder shall be moveable property, capable of being transferred in manner provided by the regulations contained herein, or in any other Act regulating the Bank for the time being in force, and shall not be of the nature of immoveable property; and each share shall be distinguished by its appropriate number.

Form of transfer to be approved by Board.

**20.** Every transfer of stock or shares may be by endorsement on the certificate or in such other form as the Board from time to time may approve, and shall be presented to the Bank accompanied by such evidence as the Board may require to prove the title of the transferor.

Board may require evidence of transmission.

Every such transfer shall be verified in such manner as the Board require, and the Board may refuse to register any such transfer until the same be so verified, and, in the case of shares not fully paid up, unless the transferee is approved by the Board.

Transferor to remain proprietor till transfer registered.

The transferor shall be deemed to remain the proprietor or holder of the stock or shares transferred until the name of the transferee is registered in respect thereof.

Power to close transfer-books.

**21.** The directors may from time to time close the register and transfer-books of the Bank for any period or periods not exceeding in the whole thirty days in any twelve consecutive months.

Corporation to consist of registered proprietors or shareholders only.

**22.** The proprietors and shareholders for the time being, and no other persons, shall be members respectively of the bodies corporate hereby constituted;

Notice of trusts.

and, except for the proposes of excluding the provisions of section seventeen, the Bank shall not be bound or affected by notice of any trust to which any stock or share may be subject in the hands of the proprietor or holder thereof;

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and when any stock or share is vested in more than one proprietor or holder, such proprietors or shareholders shall, as between themselves and the Bank, be considered as joint owners with benefit of survivorship:

Shares vested in several holders.

Provided that, as regards voting at meetings, service of notices, and receipt of dividend, the person whose name stands first in the register as one of the proprietors or holders of such stock or share shall be deemed the sole proprietor or holder thereof.

23. When by the death of any proprietor or shareholder his stock or shares shall devolve on his legal representative, the Bank shall not be bound to recognize any legal representative of such proprietor or shareholder other than a person who has taken out from a Court having jurisdiction in this behalf probate of the will or letters of administration to the estate of the deceased.

Transmission of stock or shares of deceased proprietors or shareholders.

Any person becoming entitled to stock or shares in consequence of the insolvency or bankruptcy of any proprietor or shareholder, or in consequence of the marriage of any female proprietor or shareholder, may be registered as a proprietor or shareholder upon such evidence being produced as the directors may from time to time require.

Transmission on insolvency or marriage.

## CHAPTER VI.—Directors.

24. The business of the Bank shall be managed by the Board, which shall in the first instance consist of six directors, and may subsequently consist of such number, not less than six, and not more than nine, as may be fixed by a special resolution.

Board.

Such directors shall be selected by vote of a general or special meeting.

Three of the directors shall form a quorum for the transaction of business.

Quorum.

25. The persons who, on the first day of May 1876, are respectively directors of the Bank of Bengal, the Bank of Madras and the New Bank of Bombay, Limited, shall be respectively directors of the Bank of Bengal, the Bank of Madras and the Bank of Bombay, as constituted by this Act, subject to removal as hereinafter provided, and to the other provisions herein contained.

Present directors to be continued.

26. The two directors who have been longest in office shall go out of office at the general meeting.

Two directors to go out by rotation annually.

Any director so retiring may be re-elected at such meeting; and if any question arise as to which of the directors who have been the same time in office shall retire, such question shall be decided by the directors by a ballot.

27. *Clause 1.*—No person shall be qualified to serve as a director of a Bank who is not a proprietor or holder in his own right of unencumbered stock or shares of such Bank, to the nominal amount of ten thousand rupees at the least.

Qualification of directors.

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Disqualification of directors.

*Clause 2.*—No person shall be qualified to serve as a director—

If he holds the office of director, provisional director, promoter, agent, or manager of any other joint-stock Bank established, or having a branch or agency, in British India, or advertised as about to be established, or to have a branch or agency, in British India ; or

If he is a salaried officer of Government not specially authorised by the Governor-General in Council to serve as a director ;

And the office of director shall be vacated—

If the person holding it resign his office or dies ;

If he accepts or holds any other office of profit under the Bank ;

If he becomes insolvent or bankrupt, or compounds with his creditors ;

If he is declared lunatic, or becomes of unsound mind ;

If he is absent from the Board for more than three consecutive months ;

If he ceases to hold in his own right the amount or number of unencumbered stock or shares required to qualify him for the office.

Co-partners of same firm not to serve as directors at same time.

*Clause 3.*—No two persons who are partners of the same mercantile firm, or one of whom is the general agent of, or holds a power of procuration from, the other, or from a mercantile firm of which the other is a partner, shall be eligible or qualified to serve as directors at the same time.

Power to remove directors.

*Clause 4.*—The proprietors or shareholders may, by a special resolution passed by the votes of proprietors or shareholders holding in the aggregate not less than one-half of the capital, remove any director before the expiration of his period of office, and appoint, in his stead, a qualified person, who shall in all respects stand in his place.

Directors to choose president and vice-president.

**28.** At the first meeting of the directors in every year, they shall choose a president and vice-president from among themselves, and whenever the office of president or vice-president becomes vacant, they shall, at their next meeting, choose a successor for the remainder of the current year :

Provided that no person shall be chosen to be president or vice-president twice in succession.

Chairman.
Casting vote.

The president, or in his absence the vice-president, shall be chairman at all meetings whether of directors or of proprietors or shareholders, or of proprietors and shareholders, and shall have an additional or casting vote in all cases of an equal division of votes : Provided that if both the president and vice president be absent at any meeting, the directors present shall elect a chairman for such meeting from among themselves, and such chairman shall, in case of an equal division of votes, have an additional or casting vote.

NOTE.—As amended by Act V of 1879.

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Vacancies among directors how filled up.

**29.** The Board shall have power at any time, and from time to time, to supply any vacancies in their number arising from the death, resignation, or disqualification, under section twenty-seven, of any director.

Any director so appointed shall, for the purposes of section twenty-six be considered to have held office from the date on which the director in whose place he is appointed was elected, or (where such director was appointed under this section) from the date on which his mediate or immediate predecessor was elected.

Acts of directors valid notwithstanding subsequent discovery of disqualification.

**30.** All acts done by any person acting in good faith as a director shall be as valid as if he was a director, notwithstanding it be afterwards discovered that there was some defect in his appointment or qualification.

Indemnity of directors.

**31.** Every director shall be indemnified by the Bank against all losses and expenses incurred by him in or about the discharge of his duties, except such as happen from his own wilful act or default.

No director shall be responsible for any other director or for any officer, clerk or servant of the Bank, or for any loss or expense happening to the Bank by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Bank, or by the insolvency, bankruptcy or wrongful act of any customer or debtor of the Bank, or by anything done in the execution of the duties of his office or in relation thereto, or otherwise than for his own wilful act or default.

## CHAPTER VII.—Officers of the Bank.

Appointment, salaries, supension, and removal of officers.

**32.** The directors shall have power—

to appoint such officers, clerks and servants as may be necessary to conduct the business of the Bank,

to grant salaries, pensions, and other emoluments to such officers, clerks and servants, and

to suspend or remove any officer, clerk, or servant of the Bank.

Accounts, receipts and documents of Bank, by whom to be signed.

**33.** The Secretary and such other officers of the Bank as the directors may by writing notify in the local official Gazette (and, in the case of the Bank of Bengal, also in the *Gazette of India*) are hereby severally empowered for and on behalf of the Bank to endorse and transfer promissory notes, stock-receipts, stock, debentures, shares, securities and documents of title to goods, standing in the name of, or held by, the Bank,

and to draw, accept and endorse bills of exchange, bank post-bills, and letters of credit, in the current and authorized business of the Bank,

and to sign all other accounts, receipts and documents connected with such business.

Officers forbidden to engage in other commercial business.

**34.** No Secretary, Inspector, Manager, or Accountant in the service of the Bank,

and, without the previous sanction of the Board, no Khazanchi, Cashier or Shroff in the service of the Bank at the principal office,

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and, without the previous sanction of the Board, no Agent, Khazanchi, Cashier or Shroff at any branch or agency of the Bank,

shall engage in any other banking or commercial business, either on his own account or as agent for any other person or persons, or shall act as broker or agent for the sale or purchase of Government or other securities.

NOTE.—As amended by Act V of 1879.

Security from officers.

35. Every person appointed to hold, or act in, any one or more of the said offices, and every other officer from whom the directors may from time to time think fit to require it, shall give security to the directors, for the faithful discharge of his duty to the satisfaction of the directors, in such amount and in such manner as they think proper.

The security to be given as aforesaid by the person holding or acting in the office of Secretary shall not be in a less amount than fifty thousand rupees.

## CHAPTER VIII.—BUSINESS.

Business which Banks may transact.

36. The Bank is authorized to carry on and transact the several kinds of business hereinafter specified (that is to say) :

(*a*) the advancing and lending money, and opening cash credits, upon the security of—

(1) promissory notes, debentures, stock, and other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland ;

(2) bonds, debentures, and annuities charged by the Imperial Parliament on the revenues of India ;

(3) stock or debentures of, or shares in, Railway or other Companies, the interest whereon shall have been guaranteed by the Secretary of State for India in Council ;

(4) debentures or other securities for money issued by, or on behalf of, any municipal body, or any body of Commissioners for making improvements in any port, or of trustees of any port, under the authority of any Act of a legislature established in British India ;

(5) bullion or other goods which, or the documents of title to which, are deposited with, or assigned to, the Bank as security for such advances, loans or credits ; and

(6) accepted bills of exchange and promissory notes indorsed by the payees :

Provided that such advances and loans may be made, if the directors think fit, to the Secretary of State for India in Council, without any specific security ;

(*b*) the selling and realization of the proceeds of sale of any such promissory notes, debentures, stock-receipts, bonds, annuities, stock, shares, securities, bullion or goods which, or the documents of title to which, have been deposited with, or assigned to the Bank as security for such advances, loans, or credits, or which are held by the Bank, or over which the Bank is entitled to any lien or charge in respect of any such loan or advance or credit or any debt or claim of the Bank, and which have not

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been redeemed in due time in accordance with the terms and conditions (if any) of such deposit or assignment;

(c) the drawing, discounting, buying and selling of bills of exchange and other negotiable securities payable in India, or in Ceylon;

(d) the investing of the funds of the Bank upon any of the securities specified in paragraph (a) of this section, clauses (1), (2), (3), and (4), and converting the same into money when required,

and from time to time altering, converting, and transposing such investments for or into others of the investments above specified;

(e) the making, issuing and circulating of bank-post-bills and letters of credit made payable in India, or in Ceylon, to order, or otherwise than to the bearer on demand;

(f) the buying and selling of good silver, whether coined or uncoined;

(g) the receiving of deposits and keeping cash-accounts on such terms as may be agreed on;

(h) the acceptance of the charge and management of plate, jewels, title-deeds, or other valuable goods on such terms as may be agreed upon;

(i) the selling and realizing of all property, whether moveable or immoveable, which may in any way come into the possession of the Bank in satisfaction or part satisfaction of any of its claims;

(j) the transacting of pecuniary agency business on commission;

(k) the acting as agent on commission in the transaction of the following kinds of business (namely):—

(1) the buying, selling, transferring and taking charge of any securities or any shares in any public Company;

(2) the receiving of the proceeds, whether principal, interest or dividends, of any securities or shares;

(3) the remittance of such proceeds at the risk of the principal by public or private bills of exchange, payable either in India or elsewhere;

(l) the drawing of bills of exchange, and the granting of letters of credit, payable out of India, for the use of principals for the purpose of the remittances mentioned in the last preceding clause of this section;

(m) the buying, for the purpose of meeting such bills or letters of credit, of bills of exchange, payable out of India, at any usance not exceeding six months;

(mm) the borrowing of money in India for the purposes of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise;

(n) and, generally, the doing of all such matters and things as may be incidental or subsidiary to the transacting of the various kinds of business hereinbefore specified;

(o) It shall also be lawful for the Bank under any arrangement or agreement with the Secretary of State for India in Council—

(1) to act as banker for, and to pay, receive, collect, and remit money bullion, and securities on behalf of the Government;

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(2) to undertake and transact any other business which the Government may from time to time entrust to the Bank ;

And the directors shall have power from time to time to arrange and settle with the Governor-General in Council the terms of remuneration on which such business shall be undertaken by the Bank, and also as to the examination and audit from time to time of the accounts and affairs of the Bank by or on behalf of the Governor-General in Council.

NOTE.—As amended by Act V of 1879.

Business which Banks may not transact.

**37.** The directors shall not transact any kind of banking business other than those above specified, and in particular they shall not make any loan or advance—

(*a*) for a longer period than three months ; or

(*b*) upon the security of stock or shares of the Bank of which they are directors ; or

(*c*) upon mortgage, or in any other manner upon the security, of any immoveable property, or the documents of title relating thereto.

(*d*) Nor shall they (except upon the security mentioned in section thirty-six, paragraph *a*, Nos. 1 to 5 inclusive)

discount bills for any individual or partnership-firm for an amount exceeding in the whole at any one time such sum as may be prescribed by the bye-laws for the time being in force, or

lend or advance in any way to any individual or partnership-firm an amount exceeding in the whole at any one time such sum as may be so prescribed.

(*e*) Nor shall they discount or buy, or advance and lend, or open cash-credits on the security of any negotiable instrument of any individual or partnership firm, payable in the town or at the place where it is presented for discount, which does not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership.

(*f*) Nor shall they discount or buy, or advance and lend, or open cash-credits on the security of any negotiable security having at the date of the proposed transaction a longer period to run than three months, or if drawn after sight, drawn for a longer period than three months : Provided that, in the case of the Bank of Madras, the directors may discount negotiable securities payable in Ceylon having at the date of the transaction a period to run not exceeding four months.

Overdrawing.

Nothing contained in this Act shall be deemed to prevent the directors from allowing any person who keeps an account with the Bank from over-drawing such account, without security, to the extent of sums not exceeding at any one time two thousand rupees in the whole.

NOTE.—As amended by Act V of 1879.

Sums payable by or to Government to be payable at Banks.

**38.** Until the expiration of at least fourteen days after notice has been given by notification of the Governor-General in Council published, in the case of the Bank of Bengal, in the *Gazette of India* and the *Calcutta Gazette*, and in the cases of the Bank of Madras and the Bank of Bombay, in the local official Gazette, that the Bank will no longer act as banker for, or pay, receive, collect, or remit money, bullion and securities on behalf of the Government,

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all sums payable by or to the Secretary of State for India in Council, or by or to the Governor-General in Council, or the Government of Bengal, or the Governor of Fort St. George in Council, or the Governor of Bombay in Council, on behalf of the Secretary of State for India in Council, at the General Treasury of Fort William in Bengal, or at the General Treasury at Madras, or at the General Treasury at Bombay,

shall be payable—

in the case of the Secretary of State for India in Council, or the Governor-General in Council—at the office of the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be,

in the case of the Government of Bengal—at the office of the Bank of Bengal;

in the case of the Governor of Fort St. George in Council—at the office of the Bank of Madras; and

in the case of the Governor of Bombay in Council—at the office of the Bank of Bombay.

Presentment of promissory notes at Banks.

**39.** Whenever presentment of any promissory note, bond or other security for payment or any other purpose at any of the said General Treasuries would heretofore have been necessary or sufficient, presentment for such purpose shall be necessary or sufficient (as the case may be) until the expiration of fourteen days after the giving of the notice mentioned in section thirty-eight—

in the case of the General Treasury of Fort William—at the office of the Bank of Bengal;

in the case of the General Treasury at Madras—at the office of the Bank of Madras; and

in the case of the General Treasury at Bombay—at the office of the Bank of Bombay.

Place of business.

**40.** The office of the Bank of Bengal shall be at Calcutta, that of the Bank of Madras shall be at Madras, and that of the Bank of Bombay shall be in the Island of Bombay, and the business of the Bank shall be carried on at its office, and at such other place or places in India as the Board may deem advisable under the provisions of section forty-two.

Acquisition of business-premises.

**41.** For the purpose of providing offices and places in and at which to carry on and manage the business of the Bank, and proper residences for its agents, the directors may—

(*a*) acquire any interest in immoveable property, and

(*b*) sell, buy in, re-sell, exchange, let, furnish, repair, insure against fire, and otherwise deal with all or any part of the same as they may consider most conducive to the interests of the Bank.

Establishment of branches and agencies.

**42.** It shall be lawful for the directors to maintain as branches or agencies of the Bank, any branches or agencies of the present Banks which may be in existence on the first day of May 1876, and, from time to time, to establish branches or agencies at such places within the Presidency in which the Bank is situate as they deem advantageous to the interest of the Bank,

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and, with the previous consent of the Governor-General in Council, and subject to such restrictions as to the business to be transacted as he thinks fit in each case to impose (such consent and restrictions being notified in the *Gazette of India*), to establish branches or agencies at such places outside the Presidency in which the Bank is situate, as the directors deem advantageous for the interests of the Bank :

Proviso.

Provided that no agency of the Bank now or hereafter established in Bombay, Calcutta, or Madras shall advance, or lend money, or open cash credits on securities, or receive deposits and keep cash-accounts, or discount bills of exchange drawn and payable in the Presidency in which it is so established,

or shall act as agent on commission, or transact any business except as agent of its principal Bank, or any of its branches or other agencies.

The directors may discontinue any branch or agency maintained or established under this section.

## CHAPTER IX.—ACCOUNTS AND DIVIDENDS.

Books to be balanced twice a year.

43. The directors shall cause the books of the Bank to be balanced on every thirty-first day of December and every thirtieth day of June.

A statement of the balance at every such period, signed by a majority of the directors, shall be forthwith sent to a Secretary to the Governm ent of India, and in the cases of the Bank of Madras and the Bank of Bombay also to a Secretary to the Local Government.

The Governor-General in Council in the case of each of the said Banks, and the Local Government in the case of the Bank of Madras and the Bank of Bombay, shall (so long as any such arrangement with the Government as aforesaid which has already been, or shall hereafter be, entered into, remains in force) at all times be entitled to require of the directors any information touching the affairs of the Bank and the production of any document of the Bank ;

and in the case of each of the said Banks, the Governor-General in Council may require the publication of such statements of its assets and liabilities at such intervals and in such form and manner as the Governor-General in Council thinks fit.

Every requisition under this section shall be signified in writing under the hand of a Secretary to the Government of India or to the Local Government (as the case may be), and the directors shall comply with every such requisition.

Dividends to be determined half-yearly.

44. An account of the profits of the Bank during the previous half-year shall be taken on or immediately after every thirty-first day of December and every thirtieth day of June,

and a dividend shall be made as soon thereafter as conveniently may be,

and the amount of such dividend shall be determined by the directors, subject to the provisions of section forty-five.

No unpaid dividend shall bear interest as against the Bank.

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Reserve fund.

45. The directors, before declaring any dividend, may set aside out of the profits of the Bank such a sum as they think proper as a reserve-fund, and invest the same upon any of the securities specified in section thirty-six, paragraph (*a*), clauses (1), (2), (3) and (4).

Application of reserve fund.

46. The directors may, from time to time, apply such portion as they think fit of the reserve-fund to meet contingencies, or for equalizing dividends, or for any other purposes of the Bank, which they from time to time deem expedient.

## CHAPTER X.—Audit.

Election of auditors.

47. Two auditors shall be elected and their remuneration fixed at the annual general meeting.

Who may be auditors.

The auditors may be proprietors or shareholders; but no director or other officer of the company is eligible during his continuance in office.

Auditors re-eligible.

Any auditor shall be re-eligible on his quitting office.

Auditors' tenure of office.

The persons who shall be auditors on the first day of May 1876, and all auditors elected under this section, shall severally be and continue to act as auditors until the first general meeting after their respective elections:

Supply of casual vacancy in office.

Provided that if any casual vacancy occurs in the office of any auditor, the directors shall forthwith call a special meeting for the purpose of supplying the same.

Rights and duties of auditors.

48. Every auditor shall be supplied with a copy of the half-yearly balance sheet, and it shall be his duty to examine the same, with the accounts and vouchers relating thereto.

Every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts, and other documents of the Bank, and may (at the expense of the Bank) employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine the directors or any other officer of the Bank.

The auditors shall make a report to the proprietors and shareholders upon the annual balance-sheet and accounts; and in every such report they shall state whether, in their opinion, the balance sheet is a full and fair balance-sheet containing the particulars required by the bye-laws made under this Act, and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and in case they have called for any explanation or information from the directors, whether it has been given by the directors and whether it has been satisfactory.

Such report shall be read together with the report of the directors at the annual general meeting.

## CHAPTER XI.—Meetings.

Annual general meetings.

49. On the first Monday of the month of August in every year, or as soon after such day as is convenient, a general meeting shall be held, at which the directors shall submit

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to the proprietors and shareholders a statement of the affairs of the Bank made up to the preceding thirtieth day of June.

A notice convening such meeting, signed by the Secretary, shall be published in the local official Gazette, and in the case of the Bank of Bengal also in the *Gazette of India*, at least fifteen days before the meeting is held.

Special meetings.

50. Any ten or more proprietors or shareholders holding stock or shares, or both, to the aggregate amount of fifty thousand rupees, or any three directors, may convene a special meeting upon giving fifteen days' previous notice of such meeting, and of the purpose for which the same is convened, as well to the directors as also by public advertisement in the local official Gazette, and in two of the English daily newspapers and one of the vernacular newspapers:

Provided that three months' previous notice shall be thus given of any special meeting held for the purpose of increasing or reducing the capital of the Bank, and shall also be served on every proprietor and shareholder.

Quorum.

51. No business shall be transacted at any meeting, whether general or special, unless a quorum of twenty proprietors or shareholders, or both, in person or by proxy, is present at the commencement of such business.

If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened by proprietors or shareholders not being directors, shall be dissolved: in any other case it shall stand adjourned to the same day in the following week at the same time and place, and if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die*.

Decision by majority of votes.

52. At meetings, whether general or special, every election and other matter submitted to the meeting shall be decided by a majority of votes, except as in section thirteen and in section twenty-seven, clause 4, is specially provided;

Persons not allowed to vote.

and no person shall be allowed to vote at any such meeting in respect of any stock or share acquired by transfer, unless such transfer shall have been completed and registered at least three months before the time of such meeting.

Shareholders in arrear as to calls.

And no shareholder shall be entitled to vote at any meeting in respect of any shares held by him alone or jointly, whilst any call due from him alone or jointly remains unpaid.

Power to declare resolution carried by show of hands.

53. A declaration by the chairman of any meeting, except a special meeting held under section thirteen, that a resolution has been carried thereat upon a show of hands, shall be conclusive, and an entry to that effect in the book of proceedings of the Bank shall be sufficient evidence of tha tfact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution, unless, immediately on such declaration, a poll be demanded in writing by five proprietors or shareholders present and entitled to vote at such meeting.

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Poll to be taken, if demanded.

**54.** If a poll be demanded, it shall be taken at such time and place and (except at the special meeting last aforesaid) either by open voting or by ballot, as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Proceedings and resolutions at meetings to be binding.

**55.** The proceedings at any meeting, and all resolutions and decisions of such meeting, shall be valid and binding on the Bank, so far as such proceedings, resolutions and decisions are consistent with the provisions of this or any other Act for the time being in force and regulating the Bank.

Scale of votes.

**56.** At all such meetings, the proprietors or shareholders shall vote according to the following scale :—

| | |
|---|---|
| The proprietor of capital stock amounting to Rs. 2,000, or the holder of shares of which the total nominal amounts are equal to Rs. 2,000, shall be entitled to ... | 1 vote |
| The proprietor of capital stock amounting to Rs. 10,000, or the holder of shares of which the total nominal amounts are equal to Rs. 10,000, shall be entitled to ... | 2 votes. |
| The proprietor of capital stock amounting to Rs. 20,000, or the holder of shares of which the total nominal amounts are equal to Rs. 20,000, shall be entitled to ... | 3 ,, |
| The proprietor of capital stock amounting to Rs. 30,000, or the holder of shares of which the total nominal amounts are equal to Rs. 30,000, shall be entitled to ... | 4 ,, |
| The proprietor of capital stock amounting to Rs. 40,000, or the holder of shares of which the total nominal amounts are equal to Rs. 40,000, shall be entitled to ... | 5 ,, |
| The proprietor of capital stock amounting to Rs. 50,000, or the holder of shares of which the total nominal amounts are equal to Rs. 50,000, shall be entitled to ... | 6 ,, |
| The proprietor of capital stock amounting to Rs. 75,000, or the holder of shares of which the total nominal amounts are equal to Rs. 75,000, shall be entitled to ... | 7 ,, |
| The proprietor of capital stock amounting to Rs. 1,00,000, or the holder of shares of which the total nominal amounts are equal to Rs. 1,00,000, shall be entitled to ... | 8 ,, |
| The proprietor of capital stock amounting to Rs. 1,25,000, or the holder of shares of which the total nominal amounts are equal to Rs. 1,25,000, shall be entitled to ... | 9 ,, |
| The proprietor of capital stock amounting to Rs. 1,50,000, or the holder of shares of which the total nominal amounts are equal to Rs. 1,50,000 shall be entitled to ... | 10 ,, |
| The proprietor of capital stock amounting to Rs. 1,75,000, or the holder of shares of which the total amounts are equal to Rs. 1,75,000, shall be entitled to ... | 11 ,, |
| The proprietor of capital stock amounting to Rs. 2,00,000, or the holder of shares of which the total amounts are equal to Rs. 2,00,000, shall be entitled to ... | 12 ,, |

Where a person is both a proprietor of stock and a holder of shares, his shares shall, for the purpose of this section, be deemed to be stock.

No proprietor or shareholder shall be entitled to more than twelve votes at any such meeting.

Proxies of proprietors or shareholders.

**57.** Any proprietor or shareholder entitled to vote at any meeting under this Act may give a proxy in writing, either general or special, under his hand or the hand of his attorney duly authorized, to any other proprietor or shareholder.

Such proxy shall be produced at the time of voting, and shall entitle the person to whom it is given to vote on such matters as shall be authorized by the tenor of such proxy.

But no person shall be permitted to vote in virtue of such proxy unless it has been left for registration at the office of the Bank at least three clear days before the time for holding the meeting at which it is intended to be used.

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Provided that a general proxy which has been registered at such office need not be again left for registration previous to any subsequent meeting.

Existing proxies.

Proxies existing and in force with reference to any of the present Banks, on the first day of May 1876, shall continue in force and be available at meetings under this Act, anything herein contained notwithstanding.

A general power-of-attorney shall be deemed a proxy within the meaning of this section.

Voting by lunatic and minor shareholders.

58. If any proprietor or shareholder is a lunatic, or idiot, he may vote by his committee or other legal curator, and if any proprietor or shareholder is a minor, he may vote by his guardian, or any one of his guardians, if more than one.

## CHAPTER XII.—NOTICES.

Service of notices by Bank.

59. Every notice or other document requiring to be served by the Bank upon any proprietor or shareholder may be served either personally, or by leaving it for, or sending it through the post by registered letter addressed to, him at his registered place of abode ;

and every notice sent though the post shall be deemed to have been served at the time at which, in the usual course of post, it would have been delivered.

Notices by shareholders.

60. Any proprietor or shareholder who changes his name or place of abode, or being a female marries, and the husband of any such female, respectively, shall not be entitled to recover any dividend or to vote until notice of the change of name or abode or marriage be given to the Bank, in order that the same may be registered.

Every notice to be given on the part of any proprietor or shareholder shall be left at the office of the Bank, or sent through the post by registered letter addressed to the Secretary of the Bank at its principal office.

Shareholder bound by notices to previous holders.

61. Every person who by operation of law, transfer, or otherwise, becomes entitled to any stock or shares, shall be bound by any and every notice or other document which, previously to his name and address being entered upon the register of the Bank in respect of such stock or shares, has been given to the person from whom he derives his title thereto.

Service of notices good, notwithstanding shareholder's death.

62. When any notice or document is delivered or sent, in accordance with this Act, at or to the registered place of abode of a proprietor or shareholder, then, and notwithstanding he be then deceased, and whether or not the Bank have notice of his decease, such service of the notice or other document shall, for all purposes of this Act, be deemed service thereof on him, or, if dead, on his heirs, executors, administrators, and every of them.

## CHAPTER XIII.—BYE-LAWS.

Power of directors to make bye-laws.

63. The directors shall, as soon as may be, make, and may from time to time alter, bye-laws regulating the following matters or any of them :—

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(a) the maximum amount which may be advanced or lent to, or for which bills may be discounted for, any individual or partnership, without the security mentioned in section thirty-six, paragraph (a), Nos. (1) to (5) inclusive,

(b) the circumstances under which alone advances may be made to directors or officers of the Bank, or the relatives of such directors or officers, or to companies, firms, or individuals with which or with whom such directors, officers, or relatives are connected as partners, directors, managers, servants, shareholders, or otherwise,

(c) the particulars to be contained in the half-yearly balance-sheet.

The directors may from time to time make bye-laws regulating the following matters or any of them :

(d) the distribution of business amongst the directors,

(e) their remuneration,

(f) the delegation of any powers of the directors to committees consisting of members of their body;

(g) the procedure at the meetings of the Board or of any committee of the directors,

(h) the books and accounts to be kept at the head and other offices respectively;

(i) the reports and statements to be prepared and made by the Chief Accountant, the heads of departments, and the other officers of the Bank,

(j) the management of the branches and agencies,

(k) the fees payable for certificates of shares or receipts for stock, or for registration of transfers of shares or stock,

(l) the renewal of certificates of shares and receipts for stock, which have been worn-out, or lost,

(m) and, generally, for the conduct of the business of the Bank :

Proviso.

Provided that no bye-law, or alteration or rescission of any bye-law, shall be of any validity, except in so far as the same is consistent with the provisions of this Act, and has been previously approved by the Governor-General in Council, and such approval has been signified in writing under the hand of a Secretary to the Government of India.

NOTE.—As amended by Act V of 1879.

## CHAPTER XIV.—MISCELLANEOUS.

Power to institute and compromise suits.

**64.** The directors may institute, conduct, defend, compromise, refer to arbitration, and abandon legal and other proceedings and claims by or against the Bank or the directors or officers of the Bank, and otherwise concerning its affairs.

Evidence in legal proceedings against shareholders.

**65.** In any suit brought against any shareholder to recover any debt due for any call or other monies due from him in his character of shareholder, it shall be sufficient to allege that the defendant is a shareholder of the Bank, and is indebted to the Bank in respect of a call made or other monies due, whereby a right to sue has accrued to the Bank ;

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and, on the hearing of any suit brought by the Bank against any shareholder to recover any debt due for any call, it shall be sufficient to prove that the name of the defendant is on the register of shareholders of the Bank as the holder of the shares in respect of which such debt accrued, and that the call was made and that notice of such call was duly given to the defendant in pursuance of this or any Act for the time being in force regulating the Bank;

and it shall not be necessary to prove the appointment of the directors who made such call, nor that a quorum of directors was present at the Board at which such call was made, nor that the meeting at which it was made was duly convened or constituted.

Modification of 33 Geo. III, Sess. 2, Cap. 52.

66. Nothing in the Thirty-third of George the Third, session two, chapter fifty-two, shall be deemed to render it unlawful for any servant of Government, or for any Judge of a High Court, to become a member of any corporation established under this Act.

Power to wind up Bank under Indian Companies Act.

67. Notwithstanding anything contained in this Act or in Section 231 of Act No. X of 1866, whenever the proprietors and shareholders have passed a special resolution that the Bank shall be wound up voluntarily under the Indian Companies Act, 1866, the bank shall be wound up accordingly, as if it were a Company under that Act:

Provided that no such special resolution shall be deemed to have been passed unless at least one-third of the proprietors and shareholders holding at least one-half of the paid-up capital of the Bank for the time being be present in person or by proxy, and a majority poll by open voting in favour of the said resolution, and such resolution has been confirmed by a majority of such proprietors and share-holders at a subsequent special meeting held at an interval of not less than one month, nor more than two months, from the date of the meeting at which such resolution was first passed.

Sales to Banks of Bengal and Madras of Government shares therein.

68. And whereas the Government of India has agreed to sell, and the directors of the present Bank of Bengal have agreed to purchase, at a premium of twenty-two and a half per centum, the said two thousand two hundred shares of one thousand rupees each held by the Government of India in the same Bank; and it is intended that the directors of the Bank of Bengal as constituted by this Act shall cancel two thousand of such shares, and sell for the benefit of the Bank four hundred shares in the same Bank, corresponding with the remaining two hundred shares so agreed to be sold and purchased;

And whereas the Government of India has agreed to sell, and the directors of the present Bank of Madras have agreed to purchase, at a premium of ten per centum, the said five hundred and sixty-two and a half shares, held by the Government of India in the same Bank: and it is intended that the directors of the Bank of Madras as constituted by this Act shall cancel the same shares;

Purchase and cancellation by directors of 62½ shares in present Banks of Madras.

And whereas the directors of the present Bank of Madras have purchased and cancelled other sixty-two and a half shares in such Bank;

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And whereas the said respective directors of the present Bank of Bengal and Bank of Madras had no power to enter into the said agreements with the Government of India, and the directors of the Bank of Bengal as constituted by this Act have no power to sell the four hundred shares referred to in this section, and the said directors of the present Bank of Madras had no power to purchase and cancel the said other sixty-two and a half shares;

And whereas the directors of the Bank of Bengal as constituted by this Act have no power to cancel the said two thousand shares, and the said directors of the Bank of Madras as constituted by this Act have no power to cancel the said five hundred and sixty-two and a half shares:

And whereas it is expedient to confirm the said agreements with the Government of India, and to indemnify the said respective directors of the present Bank of Bengal and Bank of Madras for entering into the same, and to confirm the said purchase of the said other sixty-two and a half shares by the directors of the present Bank of Madras, and to indemnify the same directors for making the same, and for cancelling the same shares, and to empower the directors of the Bank of Bengal as constituted by this Act to sell the said four hundred shares, and to empower the respective directors of the Bank of Bengal and Bank of Madras as constituted by this Act to cancel the said shares so intended to be cancelled; It is hereby further enacted as follows:—

Confirmation of agreements with Government.

(*a*).—The said agreements with the Government of India are hereby confirmed, and the said respective directors of the present Bank of Bengal and Bank of Madras are hereby indemnified for entering into the same; and no suit or other proceeding shall be maintained against any such director in respect of anything *bonâ fide* done in pursuance of either of such agreements.

Confirmation of purchase of the 62½ shares.

(*b*).—The said purchase of the said other sixty-two and a half shares is hereby confirmed, and the said directors of the present Bank of Madras are hereby indemnified for making the same and for cancelling the same shares; and no suit or other proceeding shall be maintained against any such director in respect of anything *bonâ fide* done in effecting such purchase and cancellation.

Sale by directors of 400 shares in Bank of Bengal.

(*c*).—The directors of the Bank of Bengal as constituted by this Act shall have power to sell, and shall, as soon as conveniently may be, sell, the said four hundred shares, either together or in parcels, and either by public auction or private contract, and shall apply the proceeds in or towards paying the price of the shares of the Government of India so agreed to be purchased by the directors of the present Bank as aforesaid, or otherwise for the benefit of the Bank of Bengal as constituted by this Act.

Cancellation of certain shares.

(*d*).—The directors of the Bank of Bengal as constituted by this Act shall have power to cancel, and shall, as soon as conveninently may be, cancel, the said two thousand shares, and the directors of the Bank of Madras as constituted by this Act shall have power to cancel, and shall, as soon as conveniently may be, cancel, the said five hundred and sixty-two and a half shares.

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SCHEDULE.

(SEE SECTION 2).

*Part I.—Statute.*

| Number and year. | Abbreviated title. | Extent of repeal. |
|---|---|---|
| 47 George III, sess. 2, cap. 68. | An Act for the better Government of the Settlements of Fort St. George and Bombay, &c. | Sections eight, nine and ten. |

*Part II.—Acts of the Governor-General in Council.*

| Number and year. | Title. |
|---|---|
| IV of 1862 ... | An Act for regulating the Bank of Bengal. |
| V of 1862 ... | An Act to provide for the payment at the Banks of Bengal, Madras and Bombay, of monies payable at the General Treasuries of Calcutta, Madras and Bombay. |
| VI of 1862 ... | An Act to annex a schedule to Act IV of 1862. |
| XXIX of 1863 ... | An Act to declare the receipts of the Banks of Bengal, Madras and Bombay to be sufficient in lieu of the receipts of the Sub-treasurers of Fort William, Fort St. George and Bombay, respectively. |
| XIX of 1870 ... | An Act to enable the Directors of the Bank of Bengal to act by a quorum. |

*Part III.—Acts of the Governor of Fort St. George in Council.*

| Number and year. | Title. |
|---|---|
| VI of 1866 ... | An Act for repealing Madras Act V of 1862, and for regulating the Bank of Madras. |
| I of 1871 ... | An Act to amend Madras Act VI of 1866, to give validity to certain acts done by the Directors of the Bank of Madras, and to enable outgoing Directors to be re-elected. |

*Part IV.—Acts of the Governor of Bombay in Council.*

| Number and year. | Title. |
|---|---|
| X of 1863 ... | An Act for the Re incorporation and Re-constitution of the Bank of Bombay. |
| XV of 1866 ... | An Act to amend Act No. X of 1863 (Bombay). |
| I of 1867 ... | An Act to reduce the amount of the capital of the Bank of Bombay and of the shares thereon, and to amend Act X of 1863 and Act XV of 1863 (Bombay). |

## ACT No. XVI of 1876.

(*Passed on the 5th October* 1876).

An Act to amend the Stage Carriages Act.

Preamble.

Whereas Act No. XVI of 1861 (*for licensing and regulating Stage Carriages*) does not apply to carriages drawn by camels or oxen, and it is expedient to render it applicable to such carriages; It is hereby enacted as follows:—

Amendment of Act XVI of 1861, S. 21.

1. For the third sentence of Section 21 of the said Act, the following shall be substituted (that is to say):

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"All expressions and provisions which in this Act are applied to horses shall also apply to all other animals employed in drawing any carriage ordinarily used for the purpose of conveying passengers for hire to or from any place in British India."

Local extent of Act XVI of 1861.

2. The said Act, as amended by this Act, applies to the whole of British India, but not so as to supersede or contravene the provisions of any local law dealing with the same subject.

## ACT No. XIX of 1876.

(*Passed on the 16th December* 1876).

An Act for the better control of public dramatic performances.

Preamble.

WHEREAS it is expedient to empower the Government to prohibit public dramatic performances, which are scandalous, defamatory, seditious, or obscene; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Dramatic Performances Act, 1876:"

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force at once.

"Magistrate" defined.

2. In this Act "Magistrate" means, in the Presidency Towns, a Magistrate of Police, and elsewhere the Magistrate of the District.

Power to prohibit certain dramatic performances.

3. Whenever the Local Government is of opinion that any play, pantomime, or other drama performed or about to be performed in a public place is—

(*a*) of a scandalous or defamatory nature, or

(*b*) likely to excite feelings of disaffection to the Government established by law in British India, or

(*c*) likely to deprave and corrupt persons present at the performance,

the Local Government, or outside the Presidency Towns and Rangoon, the Local Government or such Magistrate as it may empower in this behalf, may by order prohibit the performance.

*Explanation.*—Any building or enclosure to which the public are admitted to witness a performance on payment of money shall be deemed a "public place" within the meaning of this section.

Power to serve order of prohibition.

Penalty for disobeying order.

4. A copy of any such order may be served on any person about to take part in the performance so prohibited, or on the owner or occupier of any house, room, or place in which such performance is intended to take place; and any person on whom such copy is served, and who does, or willingly permits, any act in disobedience to such order, shall be punished on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Power to notify order.

5. Any such order may be notified by proclamation, and a written or printed notice thereof may be stuck up at any place or places adapted for giving information of the order to the persons intending to take part in or to witness the performance so prohibited.

Penalty for disobeying prohibition.

6. Whoever, after the notification of any such order—

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(*a*) takes part in the performance prohibited thereby, or in any performance substantially the same as the performance so prohibited, or

(*b*) in any manner assists in conducting any such performance, or

(*c*) is in wilful disobedience to such order present as a spectator, during the whole or any part of any such performance, or

(*d*) being the owner or occupier, or having the use of, any house, room, or place, opens, keeps, or uses the same for any such performance, or permits the same to be opened, kept, or used for any such performance, shall be punishable on conviction before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Power to call for information.

**7.** For the purpose of ascertaining the character of any intended public dramatic performance, the Local Government or such officer as it may specially empower in this behalf may apply to the author, proprietor, or printer of the drama about to be performed, or to the owner or occupier of the place in which it is intended to be performed, for such information as the Local Government or such officer thinks necessary.

Every person so applied to shall be bound to furnish the same to the best of his ability, and whoever contravenes this section shall be deemed to have committed an offence under Section 176 of the Indian Penal Code.

Power to grant warrant to Police to enter and arrest and seize.

**8.** If any Magistrate has reason to believe that any house, room, or place is used, or is about to be used, for any performance prohibited under this Act, he may, by his warrant, authorize any officer of police to enter with such assistance as may be requisite, by night or by day, and by force if necessary, any such house, room, or place, and to take into custody all persons whom he finds therein, and to seize all scenery, dresses, and other articles found therein and reasonably suspected to have been used, or to be intended to be used, for the purpose of such performance.

Saving of prosecutions under Penal Code, Sections 124A and 294.

**9.** No conviction under this Act shall bar a prosecution under Section 124A or Section 294 of the Indian Penal Code.

Power to prohibit dramatic performances in any local area, except under license.

**10.** Whenever it appears to the Local Government that the provisions of this section are required in any local area, it may, with the sanction of the Governor-General in Council, declare, by notification in the local official Gazette, that such provisions are applied to such area from a day to be fixed in the notification.

On and after that day, the Local Government may order that no dramatic performance shall take place in any place of public entertainment within such area, except under a license to be granted by such Local Government, or such officer as it may specially empower in this behalf.

The Local Government may also order that no dramatic performance shall take place in any place of public entertainment within such area, unless a copy of the piece, if and so far as it is written, or some sufficient account of its purport, if and so far as it is in pantomime, has been furnished, not less than three days before the performance, to the Local Government, or to such officer as it may appoint in this behalf.

A copy of any order under this section may be served on any keeper of a place of public entertainment, and if thereafter he does, or willingly permits, any act in disobedience to such order, he shall be punishable on conviction

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before a Magistrate with imprisonment for a term which may extend to three months, or with fine, or with both.

Powers exercisable by Governor-General.

11. The powers conferred by this Act on the Local Government may be exercised by the Governor-General in Council.

Exclusion of performances at religious festivals.

12. Nothing in this Act applies to any *jatras* or performances of a like kind at religious festivals.

## ACT No. I of 1877.

(*Passed on the 7th February* 1877).

An Act to define and amend the Law relating to certain kinds of Specific Relief.

Preamble.

WHEREAS it is expedient to define and amend the law relating to certain kinds of specific relief obtainable in civil suits; It is hereby enacted as follows :—

### PART I.—PRELIMINARY.

Short title.

1. This Act may be called "The Specific Relief Act, 1877 ":

Local extent.

It extends to the whole of British India, except the Scheduled Districts as defined in Act No. XIV of 1874 :

Commencement.

And it shall come into force on the first day of May 1877.

NOTE.—The Act has been extended to the Scheduled Districts of the Punjab by Notification No. 145 J, dated 18th September 1877--(*Gazette of India of 22nd idem*).

Repeal of enactments.

2. On and from that day the Acts specified in the schedule hereto annexed shall be repealed to the extent mentioned in its third column.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

'obligation' includes every duty enforceable by law :

'trust' includes every species of express, implied, or constructive fiduciary ownership :

'trustee' includes every person holding, expressly, by implication, or constructively, a fiduciary character :

*Illustrations.*

(*a*). Z bequeaths land to A, 'not doubting that he will pay thereout an annuity of Rs. 1,000 to B for his life.' A accepts the bequest. A is a trustee within the meaning of this Act for B to the extent of the annuity.

(*b*). A is the legal, medical, or spiritual adviser of B. By availing himself of his situation as such adviser, A gains some pecuniary advantage which might otherwise have accrued to B. A is a trustee for B within the meaning of this Act of such advantage.

(*c*). A, being B's banker, discloses for his own purpose the state of B's account. A is a trustee, within the meaning of this Act, for B, of the benefit gained by him by means of such disclosure.

(*d*). A, the mortgagee of certain leaseholds, renews the lease in his own name. A is a trustee within the meaning of this Act of the renewed lease for those interested in the original lease.

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(*e*). A, one of several partners, is employed to purchase goods for the firm. A, unknown to his co-partners, supplies them, at the market-price, with goods previously bought by himself when the price was lower, and thus makes a considerable profit. A is a trustee, for his co-partners, within the meaning of this Act of the profit so made.

(*f*). A, the manager of B's indigo factory, becomes agent for C, a vendor of indigo-seed, and receives, without B's assent, commission on the seed purchased from C for the factory. A is a trustee, within the meaning of this Act, for B, of the commission so received.

(*g*). A buys certain land with notice that B has already contracted to buy it. A is a trustee, within the meaning of this Act, for B, of the land so bought.

(*h*). A buys land from B, having notice that C is in occupation of the land. A omits to make any inquiry as to the nature of C's interest therein. A is a trustee, within the meaning of this Act for C, to the extent of that interest.

'settlement' means any instrument (other than a will or codicil as defined by the Indian Succession Act) whereby the destination or devolution of successive interests in moveable or immoveable property is disposed of or is agreed to be disposed of :

and all words occurring in this Act, which are defined in the Indian Contract Act, 1872, shall be deemed to have the meanings respectively assigned to them by that Act.

Savings.

**4.** Except where it is herein otherwise expressly enacted, nothing in this Act shall be deemed—

(*a*) to give any right to relief in respect of any agreement which is not a contract ;

(*b*) to deprive any person of any right to relief, other than specific performance, which he may have under any contract ; or

(*c*) to affect the operation of the Indian Registration Act on documents.

Specific relief how given.

**5.** Specific relief is given—

(*a*) by taking possession of certain property and delivering it to a claimant ;

(*b*) by ordering a party to do the very act which he is under an obligation to do ;

(*c*) by preventing a party from doing that which he is under an obligation not to do ;

(*d*) by determining and declaring the rights of parties otherwise than by an award of compensation ; or

(*e*) by appointing a Receiver.

Preventive relief.

**6.** Specific relief granted under clause (*c*) of Section 5 is called preventive relief.

Relief not granted to enforce penal law.

**7.** Specific relief cannot be granted for the mere purpose of enforcing a penal law.

## PART II.—OF SPECIFIC RELIEF.

### CHAPTER I.

### OF RECOVERING POSSESSION OF PROPERTY.

#### (*a*).—*Possession of Immoveable Property.*

Recovery of specific immoveable property.

**8.** A person entitled to the possession of specific immoveable property may recover it in the manner prescribed by the Code of Civil Procedure,

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Suit by person dispossessed of immoveable property.

**9.** If any person is dispossessed without his consent of immoveable property otherwise than in due course of law, he or any person claiming through him may, by suit instituted within six months from the date of the dispossession, recover possession thereof, notwithstanding any other title that may be set up in such suit.

Nothing in this section shall bar any person from suing to establish his title to such property and to recover possession thereof.

No suit under this section shall be brought against the Government.

No appeal shall lie from any order or decree passed in any suit instituted under this section, nor shall any review of any such order or decree be allowed.

NOTE.—See the Court Fees Act (VII of 1870), Section 35, Note (*j*).

(*b*).—*Possession of Moveable Property.*

Recovery of specific moveable property.

**10.** A person entitled to the possession of specific moveable property may recover the same in the manner prescribed by the Code of Civil Procedure.

EXPLANATION 1.—A trustee may sue under this section for the possession of property to the beneficial interest in which the person for whom he is trustee is entitled.

EXPLANATION 2.—A special or temporary right to the present possession of property is sufficient to support a suit under this section.

*Illustrations.*

(*a*). A bequeaths land to B for his life, with remainder to C. A dies. B enters on the land, but C, without B's consent, obtains possession of the title-deeds. B may recover them from C.

(*b*). A pledges certain jewels to B to secure a loan. B disposes of them before he is entitled to do so. A, without having paid or tendered the amount of the loan, sues B for possession of the jewels. The suit should be dismissed, as A is not entitled to their possession, whatever right he may have to secure their safe custody.

(*c*). A receives a letter addressed to him by B. B gets back the letter without A's consent, A has such a property therein as entitles him to recover it from B.

(*d*). A deposits books and papers for safe custody with B. B loses them and C finds them, but refuses to deliver them to B when demanded. B may recover them from C, subject to C's right, if any, under Section 168 of the Indian Contract Act, 1872.

(*e*). A, a warehouse-keeper, is charged with the delivery of certain goods to Z, which B takes out of A's possession. A may sue B for the goods.

Liability of person in possession, not as owner, to deliver to person entitled to immediate possession.

**11.** Any person having the possession or control of a particular article of moveable property, of which he is not the owner, may be compelled specifically to deliver it to the person entitled to its immediate possession, in any of the following cases :

(*a*) When the thing claimed is held by the defendant as the agent or trustee of the claimant ;

(*b*) when compensation in money would not afford the claimant adequate relief for the loss of the thing claimed ;

(*c*) when it would be extremely difficult to ascertain the actual damage caused by its loss ;

(*d*) when the possession of the thing claimed has been wrongfully transferred from the claimant.

*Illustrations.*

of clause (*a*).—A proceeding to Europe, leaves his furniture in charge of B as his agent during his absence. B, without A's authority, pledges the furniture to C, and C, knowing that

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B had no right to pledge the furniture, advertises it for sale. C may be compelled to deliver the furniture to A, for he holds it as A's trustee.

of clause (*b*).—Z has got possession of an idol belonging to A's family, and of which A is the proper custodian. Z may be compelled to deliver the idol to A.

of clause (*c*).—A is entitled to a picture by a dead painter and a pair of rare China vases. B has possession of them. The articles are of too special a character to bear an ascertainable market-value. B may be compelled to deliver them to A.

## CHAPTER II.

### Of the Specific Performance of Contracts.

#### (*a*). *Contracts which may be specifically enforced.*

Cases in which specific performance enforceable.

12. Except as otherwise provided in this chapter the specific performance of any contract may in the discretion of the Court be enforced—

(*a*) when the act agreed to be done is in the performance, wholly or partly, of a trust ;

(*b*) when there exists no standard for ascertaining the actual damage caused by the non-performance of the act agreed to be done ;

(*c*) when the act agreed to be done is such that pecuniary compensation for its non-performance would not afford adequate relief ; or

(*d*) when it is probable that pecuniary compensation cannot be got for the non-performance of the act agreed to be done.

Explanation.—Unless and until the contrary is proved, the Court shall presume that the breach of a contract to transfer immoveable property cannot be adequately relieved by compensation in money, and that the breach of a contract to transfer moveable property can be thus relieved.

*Illustrations.*

* * * * * *

of clause (*b*).—A agrees to buy, and B agrees to sell, a picture by a dead painter and two rare China vases. A may compel B specifically to perform this contract, for there is no standard for ascertaining the actual damage which would be caused by its non-performance.

of clause (*c*).—A contracts with B to sell him a house for Rs. 1,000. B is entitled to a decree directing A to convey the house to him, he paying the purchase-money.

In consideration of being released from certain obligations imposed on it by its Act of Incorporation, a railway-company contract with Z to make an archway through their railway to connect lands of Z severed by the railway, to construct a road between certain specified points, to pay a certain annual sum towards the maintenance of this road, and also to construct a siding and a wharf as specified in the contract. Z is entitled to have this contract specifically enforced, for his interest in its performance cannot be adequately compensated for by money ; and the Court may appoint a proper person to superintend the construction of the archway, road, siding and wharf.

A contracts to sell, and B contracts to buy, a certain number of railway-shares of a particular description. A refuses to complete the sale. B may compel A specifically to perform this agreement, for the shares are limited in number and not always to be had in the market, and their possession carries with it the status of a shareholder, which cannot otherwise be procured.

A contracts with B to paint a picture for B, who agrees to pay therefor Rs. 1,000. The picture is painted. B is entitled to have it delivered to him on payment or tender of the Rs. 1,000.

of clause (*d*).—A transfers without endorsement, but for valuable consideration, a promissory note to B. A becomes insolvent, and C is appointed his assignee. B may compel C to endorse the note, for C has succeeded to A's liabilities, and a decree for pecuniary compensation for not endorsing the note would be fruitless.

Note.—The first Illustration to this section is repealed by Act II of 1882.

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Contracts of which the subject has partially ceased to exist.

**13.** Notwithstanding anything contained in Section 56 of the Indian Contract Act, a contract is not wholly impossible of performance, because a portion of its subject-matter, existing at its date, has ceased to exist at the time of the performance.

*Illustrations.*

(*a*). A contracts to sell a house to B for a lakh of rupees. The day after the contract is made, the house is destroyed by a cyclone. B may be compelled to perform his part of the contract by paying the purchase-money.

(*b*). In consideration of a sum of money payable by B, A contracts to grant an annuity to B for B's life. The day after the contract has been made, B is thrown from his horse and killed. B's representative may be compelled to pay the purchase-money.

Specific performance of part of contract where part unperformed is small.

**14.** Where a party to a contract is unable to perform the whole of his part of it, but the part which must be left unperformed bears only a small proportion to the whole in value, and admits of compensation in money, the Court may, at the suit of either party, direct the specific performance of so much of the contract as can be performed, and award compensation in money for the deficiency.

*Illustrations.*

(*a*). A contracts to sell B a piece of land consisting of 100 bighas. It turns out that 98 bighas of the land belong to A, and the two remaining bighas to a stranger, who refuses to part with them. The two bighas are not necessary for the use or enjoyment of the 98 bighas, nor so important for such use or enjoyment that the loss of them may not be made good in money. A may be directed at the suit of B to convey to B the 98 bighas and to make compensation to him for not conveying the two remaining bighas; or B may be directed, at the suit of A, to pay to A, on receiving the conveyance and possession of the land, the stipulated purchase-money, less a sum awarded as compensation for the deficiency.

(*b*). In a contract for the sale and purchase of a house and lands for two lakhs of rupees, it is agreed that part of the furniture should be taken at a valuation. The Court may direct specific performance of the contract notwithstanding the parties are unable to agree as to the valuation of the furniture, and may either have the furniture valued in the suit and include it in the decree for specific performance, or may confine its decree to the house.

Specific performance of part of a contract where the part unperformed is large.

**15.** Where a party to a contract is unable to perform the whole of his part of it, and the part which must be left unperformed forms a considerable portion of the whole, or does not admit of compensation in money, he is not entitled to obtain a decree for specific performance. But the Court may, at the suit of the other party, direct the party in default to perform specifically so much of his part of the contract as he can perform, provided that the plaintiff relinquishes all claim to further performance, and all right to compensation either for the deficiency, or for the loss or damage sustained by him through the default of the defendant.

*Illustrations.*

(*a*). A contracts to sell to B a piece of land consisting of 100 bighas. It turns out that 50 bighas of the land belong to A, and the other 50 bighas to a stranger, who refuses to part with them. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the 50 bighas which belong to A, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect, or default, B is entitled to a decree directing A to convey those 50 bighas to him on payment of the purchase-money.

(*b*). A contracts to sell to B an estate with a house and garden for a lakh of rupees. The garden is important for the enjoyment of the house. It turns out that A is unable to convey the garden. A cannot obtain a decree against B for the specific performance of the contract; but if B is willing to pay the price agreed upon, and to take the estate and house without the garden, waiving all right to compensation either for the deficiency or for loss sustained by him through A's neglect or default, B is entitled to a decree, directing A to convey the house to him on payment of the purchase-money.

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Specific performance of independent part of a contract.

16. When a part of a contract which, taken by itself, can and ought to be specifically performed, stands on a separate and independent footing from another part of the same contract which cannot or ought not to be specifically performed, the Court may direct specific performance of the former part.

Bar in other cases of specific performance of part of contract.

17. The Court shall not direct the specific performance of a part of a contract except in cases coming under one or other of the three last preceding sections.

Purchaser's rights against vendor with imperfect title.

18. Where a person contracts to sell or let certain property, having only an imperfect title thereto, the purchaser or lessee (except as otherwise provided by this chapter) has the following rights :—

(*a*) if the vendor or lessor has, subsequently to the sale or lease, acquired any interest in the property, the purchaser or lessee may compel him to make good the contract out of such interest ;

(*b*) where the concurrence of other persons is necessary to validate the title and they are bound to convey at the vendor's or lessor's request, the purchaser or lessee may compel him to procure such concurrence ;

(*c*) where the vendor professes to sell unincumbered property, but the property is mortgaged for an amount not exceeding the purchase-money, and the vendor has in fact only a right to redeem it, the purchaser may compel him to redeem the mortgage, and to obtain a conveyance from the mortgagee ;

(*d*) where the vendor or lessor sues for specific performance of the contract, and the suit is dismissed on the ground of his imperfect title, the defendant has a right to a return of his deposit (if any) with interest thereon, to his costs of the suit, and to a lien for such deposit, interest, and costs on the interest of the vendor or lessor in the property agreed to be sold or let.

Power to award compensation in certain cases.

19. Any person suing for the specific performance of a contract, may also ask for compensation for its breach, either in addition to, or in substitution for, such performance.

If in any such suit the Court decides that specific performance ought not to be granted, but that there is a contract between the parties which has been broken by the defendant, and that the plaintiff is entitled to compensation for that breach, it shall award him compensation accordingly.

If in any suit the Court decides that specific performance ought to be granted, but that it is not sufficient to satisfy the justice of the case, and that some compensation for breach of the contract should also be made to the plaintiff, it shall award him such compensation accordingly.

Compensation awarded under this section may be assessed in such manner as the Court may direct.

EXPLANATION.—The circumstances that the contract has become incapable of specific performance, does not preclude the Court from exercising the jurisdiction conferred by this section.

*Illustrations.*

of the second paragraph :— A contracts to sell a hundred maunds of rice to B. B brings a suit to compel A to perform the contract or to pay compensation. The Court is of opinion

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that A has made a valid contract and has broken it, without excuse, to the injury of B, but that specific performance is not the proper remedy. It shall award to B such compensation as it deems just.

of the third paragraph :—A contracts with B to sell him a house for Rs. 1,000, the price to be paid and the possession given on the 1st January 1877. A fails to perform his part of the contract, and brings his suit for specific performance and compensation, which is decided in his favour on the 1st January 1878. The decree may besides ordering specific performance, award to B compensation for any loss which he has sustained by A's refusal.

of the explanation : —A, a purchaser, sues B, his vendor, for specific performance of a contract for the sale of a patent Before the hearing of the suit, the patent expires. The Court may award A compensation for the non-performance of the contract and may, if necessary, amend the plaint for that purpose.

A sues for the specific performance of a resolution passed by the directors of a public company, under which he was entitled to have a certain number of shares allotted to him, and for compensation for the non-performance of the resolution. All the shares had been allotted before the institution of the suit. The Court may, under this section, award A compensation for the non-performance.

Liquidation of damages not a bar to specific performance.

**20.** A contract, otherwise proper to be specifically enforced, may be thus enforced, though a sum be named in it as the amount to be paid in case of its breach, and the party in default is willing to pay the same.

*Illustration.*

A contracts to grant B an underlease of property held by A under C, and that he will apply to C for a license necessary to the validity of the underlease, and that, if the license is not procured, A will pay B Rs. 10,000. A refuses to apply for the license, and offers to pay B the Rs. 10,000. B is nevertheless entitled to have the contract specifically enforced if C consents to give the license.

(*b*). *Contracts which cannot be specifically enforced.*

Contracts not specifically enforceable.

21. The following contracts cannot be specifically enforced :—

(*a*) a contract for the non-performance of which compensation in money is an adequate relief ;

(*b*) a contract which runs into such minute or numerous details, or which is so dependent on the personal qualifications or volition of the parties, or otherwise from its nature is such, that the Court cannot enforce specific performance of its material terms ;

(*c*) a contract the terms of which the Court cannot find with reasonable certainty ;

(*d*) a contract which is in its nature revocable ;

(*e*) a contract made by trustees either in excess of their powers or in breach of their trust ;

(*f*) a contract made by or on behalf of a corporation or public company created for special purposes, or by the promoters of such company, which is in excess of its powers ;

(*g*) a contract the performance of which involves the performance of a continuous duty extending over a longer period than three years from its date ;

(*h*) a contract of which a material part of the subject-matter supposed by both parties to exist has, before it has been made, ceased to exist.

And, save as provided by the Code of Civil Procedure, no contract to refer a controversy to arbitration shall be specifically enforced ; but if any person who has made such a contract and has refused to perform it, sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

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*Illustrations.*

to (*a*).—A contracts to sell, and B contracts to buy, a lakh of Rupees in the four per cent. loan of the Government of India :

A contracts to sell, and B contracts to buy, 40 chests of indigo at Rs. 1,000 per chest :

In consideration of certain property having been transferred by A and B, B contracts to open a credit in A's favour to the extent of Rs. 10,000, and to honour A's drafts to that amount.

The above contracts cannot be specifically enforced, for in the first and the second both A and B, and in the third A, would be reimbursed by compensation in money.

to (*b*).—A contracts to render personal service to B :

A contracts to employ B on personal service :

A, an author, contracts with B, a publisher, to complete a literary work.

B cannot enforce specific performance of these contracts.

A contracts to buy B's business at the amount of a valuation to be made by two valuers, one to be named by A and the other by B. A and B each name a valuer, but before the valuation is made, A instructs his valuer not to proceed :

By a charter party entered into in Calcutta between A, the owner of a ship, and B, the charterer, it is agreed that the ship shall proceed to Rangoon, and there load a cargo of rice, and thence proceed to London, freight to be paid, one-third on arrival at Rangoon, and two-thirds on delivery of the cargo in London :

A lets land to B, and B contracts to cultivate it in a particular manner for three years next after the date of the lease :

A and B contract that, in consideration of annual advances to be made by A, B will for three years next after the date of the contract, grow particular crops on the land in his possession, and deliver them to A when cut and ready for delivery :

A contracts with B that, in consideration of Rs. 1,000 to be paid to him by B, he will paint a picture for B :

A contracts with B to execute certain works which the Court cannot superintend :

A contracts to supply B with all the goods of a certain class which B may require :

A contracts with B to take from B a lease of a certain house for a specified term, at a specified rent, "if the drawing-room is handsomely decorated," even if it is held to have so much certainty that compensation can be recovered for its breach :

A contracts to marry B.

The above contracts cannot be specifically enforced.

to (*c*).—A, the owner of a refreshment-room, contracts with B to give him accommodation there for the sale of his goods and to furnish him with the necessary appliances. A refuses to perform his contract. The case is one for compensation and not for specific performance, the amount and nature of the accommodation and appliances being undefined.

to (*d*).—A and B contract to become partners in a certain business, the contract not specifying the duration of the proposed partnership. The contract cannot be specifically performed, for if it were so performed, either A or B might at once dissolve the partnership.

to (*e*).—A is a trustee of land with power to lease it for seven years. He enters into a contract with B to grant a lease of the land for seven years, with a covenant to renew the lease at the expiry of the term. This contract cannot be specifically enforced.

The directors of a company have power to sell the concern with the sanction of a general meeting of the shareholders. They contract to sell it without any such sanction. This contract cannot be specifically enforced.

Two trustees, A and B, empowered to sell trust-property worth a lakh of rupees, contract to sell it to C for Rs. 30,000. The contract is so disadvantageous as to be a breach of trust. C cannot enforce its specific performance.

The promoters of a company for working mines contract that the company, when formed, shall purchase certain mineral property. They take no proper precautions to ascertain the value of such property, and in fact agree to pay an extravagant price therefor. They also stipulate that the vendors shall give them a bonus out of the purchase-money. This contract cannot be specifically enforced.

to (*f*).—A company existing for the sole purpose of making and working a railway, contracts for the purchase of a piece of land for the purpose of erecting a cotton-mill thereon. This contract cannot be specifically enforced.

to (*g*).—A contracts to let for twenty-one years to B the right to use such part of a certain railway made by A as was upon B's land, and that B should have a right of running carriages over the whole line on certain terms, and might require A to supply the necessary

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engine-power, and that A should during the term keep the whole railway in good repair. Specific performance of this contract must be refused to B.

to (*h*).—A contracts to pay an annuity to B for the lives of C and D. It turns out that at the date of the contract, C, though supposed by A and B to be alive, was dead. The contract cannot be specifically performed.

(*c*).—*Of the discretion of the Court.*

Discretion as to decreeing specific performance.

**22.** The jurisdiction to decree specific performance is discretionary, and the Court is not bound to grant such relief merely because it is lawful to do so: but the discretion of the Court is not arbitrary, but sound and reasonable, guided by judicial principles and capable of correction by a Court of appeal.

The following are cases in which the Court may properly exercise a discretion not to decree specific performance:—

I. Where the circumstances under which the contract is made are such as to give the plaintiff an unfair advantage over the defendant, though there may be no fraud or misrepresentation on the plaintiff's part.

*Illustrations.*

(*a*). A, a tenant for life of certain property, assigns his interest therein to B. C contracts to buy, and B contracts to sell, that interest. Before the contract is completed, A receives a mortal injury from the effects of which he dies the day after the contract is executed. If B and C were equally ignorant or equally aware of the fact, B is entitled to specific performance of the contract. If B knew the fact, and C did not, specific performance of the contract should be refused to B.

(*b*). A contracts to sell to B the interest of C in certain stock-in-trade. It is stipulated that the sale shall stand good, even though it should turn out that C's interest is worth nothing. In fact, the value of C's interest depends on the result of certain partnership accounts on which he is heavily in debt to his partners. This indebtedness is known to A, but not to B. Specific performance of the contract should be refused to A.

(*c*). A contracts to sell, and B contracts to buy, certain land. To protect the land from floods, it is necessary for its owner to maintain an expensive embankment. B does not know of this circumstance, and A conceals it from him. Specific performance of the contract should be refused to A.

(*d*). A's property is put up to auction. B requests C, A's attorney, to bid for him. C does this inadvertently and in good faith. The persons present seeing the vendors's attorney bidding, think that he is a mere puffer and cease to compete. The lot is knocked down to B at a low price. Specific performance of the contract should be refused to B.

II. Where the performance of the contract would involve some hardship on the defendant which he did not foresee, whereas its non-performance would involve no such hardship on the plaintiff.

*Illustrations.*

(*e*). A is entitled to some land under his father's will on condition that, if he sells it within twenty-five years, half the purchase-money shall go to B. A, forgetting the condition, contracts, before the expiration of the twenty-five years, to sell the land to C. Here the enforcement of the contract would operate so harshly on A, that the Court will not compel its specific performance in favour of C.

(*f*) A and B, trustees, join their beneficiary, C, in a contract to sell the trust-estate to D, and personally agree to exonerate the estate from heavy incumbrances to which it is subject. The purchase-money is not nearly enough to discharge those incumbrances, though, at the date of the contract, the vendors believed it to be sufficient. Specific performance of the contract should be refused to D.

(*g*). A, the owner of an estate, contracts to sell it to B, and stipulates that he, A, shall not be obliged to define its boundary. The estate really comprises a valuable property not known to either to be part of it. Specific performance of the contract should be refused to B, unless he waives his claim to the unknown property.

(*h*). A contracts with B to sell him certain land, and to make a road to it from a certain railway station. It is found afterwards that A cannot make the road without exposing himself to litigation. Specific performance of the part of the contract relating to the road should be refused to B, even though it may be held that he is entitled to specific performance of the rest with compensation for loss of the road.

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(*i*). A, a lessee of mines, contracts with B, his lessor, that at any time during the continuance of the lease B may give notice of his desire to take the machinery and plant used in and about the mines, and that he shall have the articles specified in his notice delivered to him at a valuation on the expiry of the lease. Such a contract might be most injurious to the lessee's business, and specific performance of it should be refused to B.

(*j*). A contracts to buy certain land from B. The contract is silent as to access to the land. No right of way to it can be shown to exist. Specific performance of the contract should be refused to B.

(*k*). A contracts with B to buy from B's manufactory and not elsewhere all the goods of a certain class used by A in his trade. The Court cannot compel B to supply the goods, but if he does not supply them, A may be ruined, unless he is allowed to buy them elsewhere. Specific performance of the contract should be refused to B.

The following is a case in which the Court may properly exercise a discretion to decree specific performance :—

III. Where the plaintiff has done substantial acts or suffered losses in consequence of a contract capable of specific performance.

*Illustration.*

A sells land to a railway company who contract to execute certain works for his convenience. The company take the land and use it for their railway. Specific performance of the contract to execute the works should be decreed in favour of A.

(*d*).—*For whom Contracts may be specifically enforced.*

Who may obtain specific performance.

**23.** Except as otherwise provided by this chapter, the specific performance of a contract may be obtained by—

(*a*) any party thereto ;

(*b*) the representative in interest, or the principal, of any party thereto : provided that where the learning, skill, solvency, or any personal quality of such party is a material ingredient in the contract, or where the contract provides that his interest shall not be assigned, his representative in interest or his principal shall not be entitled to specific performance of the contract, unless where his part thereof has already been performed ;

(*c*) where the contract is a settlement on marriage, or a compromise of doubtful rights between members of the same family, any person beneficially entitled thereunder ;

(*d*) where the contract has been entered into by a tenant for life in due exercise of a power, the remainderman ;

(*e*) a reversioner in possession, where the agreement is a covenant entered into with his predecessor in title, and the reversioner is entitled to the benefit of such covenant ;

(*f*) a reversioner in remainder, where the agreement is such a covenant, and the reversioner is entitled to the benefit thereof, and will sustain material injury by reason of its breach ;

(*g*) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation ;

(*h*) when the promoters of a public company have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of the incorporation, the company.

(*e*).—*For whom Contracts cannot be specifically enforced.*

Personal bars to the relief.

**24.** Specific performance of a contract cannot be enforced in favour of a person—

(*a*) who could not recover compensation for its breach ;

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(*b*) who has become incapable of performing, or violates, any essential term of the contract that on his part remains to be performed;

(*c*) who has already chosen his remedy and obtained satisfaction for the alleged breach of contract;

(*d*) who, previously to the contract, had notice that a settlement of the subject-matter thereof (though not founded on any valuable consideration) had been made and was then in force.

*Illustrations.*

to clause (*a*).—A, in the character of agent for B, enters into an agreement with C to buy C's house. A is in reality acting, not as agent for B, but on his own account. A cannot enforce specific performance of this contract.

to clause (*b*).—A contracts to sell B a house and to become tenant thereof for a term of fourteen years from the date of the sale at a specified yearly rent. A becomes insolvent. Neither he nor his assignee can enforce specific performance of the contract.

A contracts to sell B a house and garden in which there are ornamental trees, a material element in the value of the property as a residence. A, without B's consent, fells the trees. A cannot enforce specific performance of the contract.

A, holding land under a contract with B for a lease, commits waste, or treats the land in an unhusbandlike manner. A cannot enforce specific performance of the contract.

A contracts to let, and B contracts to take, an unfinished house, B contracting to finish the house, and the lease to contain covenants on the part of A to keep the house in repair. B finishes the house in a very defective manner: he cannot enforce the contract specifically, though A and B may sue each other for compensation for breach of it.

to clause (*c*).—A contracts to let, and B contracts to take, a house for a specified term at a specified rent. B refuses to perform the contract. A thereupon sues for, and obtains, compensation for the breach. A cannot obtain specific performance of the contract.

Contracts to sell property by one who has no title, or who is a voluntary settler.

25. A contract for the sale or letting of property, whether moveable or immoveable, cannot be specifically enforced in favour of a vendor or lessor—

(*a*) who, knowing himself not to have any title to the property, has contracted to sell or let the same;

(*b*) who, though he entered into the contract believing that he had a good title to the property, cannot at the time fixed by the parties or by the Court for the completion of the sale or letting, give the purchaser or lessee a title free from reasonable doubt;

(*c*) who, previous to entering into the contract, has made a settlement (though not founded on any valuable consideration) of the subject-matter of the contract.

*Illustrations.*

(*a*). A, without C's authority, contracts to sell to B an estate which A knows to belong to C. A cannot enforce specific performance of this contract, even though C is willing to confirm it.

(*b*). A bequeaths his land to trustees, declaring that they may sell it with the consent in writing of B. B gives a general prospective assent in writing to any sale which the trustees may make. The trustees then enter into a contract with C to sell him the land. C refuses to carry out the contract. The trustees cannot specifically enforce this contract, as, in the absence of B's consent to the particular sale to C, the title which they can give C is, as the law stands, not free from reasonable doubt.

(*c*). A, being in possession of certain land, contracts to sell it to Z. On enquiry it turns out that A claims the land as heir of B, who left the country several years before, and is generally believed to be dead, but of whose death there is no sufficient proof. A cannot compel Z specifically to perform the contract.

(*d*). A out of natural love and affection, makes a settlement of certain property on his brothers and their issue, and afterwards enters into a contract to sell the property to a stranger. A cannot enforce specific performance of this contract so as to override the settlement, and thus prejudice the interests of the persons claiming under it.

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(*f*). *For whom Contracts cannot be specifically enforced except with a variation.*

Non-enforcement except with variation.

**26.** Where a plaintiff seeks specific performance of a contract in writing, to which the defendant sets up a variation, the plaintiff cannot obtain the performance sought, except with the variation so set up, in the following cases, namely:—

(*a*) where by fraud or mistake of fact the contract of which performance is sought is in terms different from that which the defendant supposed it to be when he entered into it;

(*b*) where by fraud, mistake of fact, or surprise the defendant entered into the contract under a reasonable misapprehension as to its effect as between himself and the plaintiff;

(*c*) where the defendant, knowing the terms of the contract and understanding its effect, has entered into it relying upon some misrepresentation by the plaintiff, or upon some stipulation on the plaintiff's part, which adds to the contract, but which he refuses to fulfil;

(*d*) where the object of the parties was to produce a certain legal result, which the contract as framed is not calculated to produce;

(*e*) where the parties have, subsequently to the execution of the contract, contracted to vary it.

*Illustrations.*

(*a*). A, B, and C sign a writing by which they purport to contract each to enter into a bond to D for Rs. 1,000. In a suit by D to make A, B, and C separately liable each to the extent of Rs. 1,000, they prove that the word 'each' was inserted by mistake; that the intention was that they should give a joint bond for Rs. 1,000. A can obtain the performance sought only with the variation thus set up.

(*b*). A sues B to compel specific performance of a contract in writing to buy a dwelling-house. B proves that he assumed that the contract included an adjoining yard, and the contract was so framed as to leave it doubtful whether the yard was so included or not. The Court will refuse to enforce the contract, except with the variation set up by B.

(*c*). A contracts in writing to let to B a wharf, together with a strip of A's land delineated in a map. Before signing the contract, B proposed orally that he should be at liberty to substitute for the strip mentioned in the contract another strip of A's land of the same dimensions, and to this A expressly assented. B then signed the written contract. A cannot obtain specific performance of the written contract, except with the variation set up by B.

(*d*). A and B enter into negotiations for the purpose of securing land to B for his life, with remainder to his issue. They execute a contract the terms of which are found to confer an absolute ownership on B. The contract so framed cannot be specifically enforced.

(*e*). A contracts in writing to let a house to B, for a certain term, at the rent of Rs. 100 per month, putting it first into tenantable repair. The house turns out to be not worth repairing, so, with B's consent, A pulls it down and erects a new house in its place; B contracting orally to pay rent at Rs. 120 per mensem. B then sues to enforce specific performance of the contract in writing. He cannot enforce it except with the variations made by the subsequent oral contract.

(*g*). *Against whom Contracts may be specifically enforced.*

Relief against parties and persons claiming under them by subsequent title.

**27.** Except as otherwise provided by this chapter, specific performance of a contract may be enforced against—

(*a*) either party thereto;

(*b*) any other person claiming under him by a title arising subsequently to the contract, except a transferee for value who has paid his money in good faith and without notice of the original contract;

(*c*) any person claiming under a title which, though prior to the contract and known to the plaintiff, might have been displaced by the defendant;

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(*d*) when a public company has entered into a contract and subsequently becomes amalgamated with another public company, the new company which arises out of the amalgamation ;

(*e*) when the promoters of a public company have, before its incorporation, entered into a contract, the company ; provided that the company has ratified and adopted the contract and the contract is warranted by the terms of the incorporation.

*Illustrations.*

to clause (*b*).—A contracts to convey certain land to B by a particular day. A dies intestate before that day without having conveyed the land. B may compel A's heir or other representative in interest to perform the contract specifically.

A contracts to sell certain land to B for Rs. 5,000. A afterwards conveys the land for Rs. 6,000 to C, who has notice of the original contract. B may enforce specific performance of the contract as against C.

A contracts to sell land to B for Rs. 5,000. B takes possession of the land. Afterwards A sells it to C for Rs. 6,000. C makes no enquiry of B relating to his interest in the land. B's possession is sufficient to affect C with notice of his interest, and he may enforce specific performance of the contract against C.

A contracts in consideration of Rs. 1,000 to bequeath certain of his lands to B. Immediately after the contract A dies intestate, and C takes out administration to his estate. B may enforce specific performance of the contract against C.

A contracts to sell certain land to B. Before the completion of the contract A becomes a lunatic, and C is appointed his committee. B may specifically enforce the contract against C.

to clause (*c*).—A, the tenant for life of an estate, with remainder to B, in due exercise of a power conferred by the settlement under which he is tenant for life, contracts to sell the estate to C, who has notice of the settlement. Before the sale is completed, A dies. C may enforce specific performance of the contract against B.

A and B are joint tenants of land, his undivided moiety of which either may alien in his lifetime, but which, subject to that right, devolves on the survivor. A contracts to sell his moiety to C and dies. C may enforce specific performance of the contract against B.

(*h*). *Against whom Contracts cannot be specifically enforced.*

What parties cannot be compelled to perform.

**28.** Specific performance of a contract cannot be enforced against a party thereto in any of the following cases :—

(*a*) if the consideration to be received by him is so grossly inadequate with reference to the state of things existing at the date of the contract, as to be either by itself or coupled with other circumstances evidence of fraud, or of undue advantage taken by the plaintiff ;

(*b*) if his assent was obtained by the misrepresentation (whether wilful or innocent), concealment, circumvention, or unfair practices of any party to whom performance would become due under the contract, or by any promise of such party which has not been substantially fulfilled ;

(*c*) if his assent was given under the influence of mistake of fact, misapprehension, or surprise : Provided that, when the contract provides for compensation in case of mistake, compensation may be made for a mistake within the scope of such provision, and the contract may be specifically enforced in other respects if proper to be so enforced.

*Illustrations.*

to clause (*c*).—A, one of two executors, in the erroneous belief that he had the authority of his co-executor, enters into an agreement for the sale to B of his testator's property. B cannot insist on the sale being completed.

A directs an auctioneer to sell certain land. A afterwards revokes the auctioneer's authority as to 20 bighas of his land, but the auctioneer inadvertently sells the whole to B, who has not notice of the revocation. B cannot enforce specific performance of the agreement.

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(*i*). *The Effect of dismissing a Suit for Specific Performance.*

Bar of suit for breach after dismissal.

**29.** The dismissal of a suit for specific performance of a contract, or part thereof, shall bar the plaintiff's right to sue for compensation for the breach of such contract or part, as the case may be.

(*i*). *Awards and Directions to execute Settlements.*

Application of preceding sections to awards and testamentary directions to execute settlements.

**30** The provisions of this chapter as to contracts shall, *mutatis mutandis*, apply to awards and to directions in a will or codicil to execute a particular settlement.

## CHAPTER III.

### Of the Rectification of Instruments.

When instrument may be rectified.

**31.** When, through fraud or a mutual mistake of the parties, a contract or other instrument in writing does not truly express their intention, either party, or his representative in interest, may institute a suit to have the instrument rectified; and if the Court find it clearly proved that there has been fraud or mistake in framing the instrument, and ascertain the real intention of the parties in executing the same, the Court may in its discretion rectify the instrument, so as to express that intention, so far as this can be done without prejudice to rights acquired by third persons in good faith and for value.

*Illustrations.*

(*a*). A intending to sell to B his house and one of three godowns adjacent to it, executes a conveyance prepared by B, in which, through B's fraud, all three godowns are included. Of the two godowns which were fraudulently included, B gives one to C and lets the other to D for a rent, neither C nor D having any knowledge of the fraud. The conveyance may, as against B and C, be rectified so as to exclude from it the godown given to C; but it cannot be rectified so as to affect D's lease.

(*b*). By a marriage-settlement, A, the father of B, the intended wife, covenants with C, the intended husband, to pay to C, his executors, administrators, and assigns, during A's life, an annuity of Rs. 5,000. C dies insolvent and the official assignee claims the annuity from A. The Court, on finding it clearly proved that the parties always intended that this annuity should be paid as a provision for B and her children, may rectify the settlement and decree that the assignee has no right to any part of the annuity.

Presumption as to intent of parties.

**32.** For the purpose of rectifying a contract in writing, the Court must be satisfied that all the parties thereto intended to make an equitable and conscientious agreement.

Principles of rectification.

**33.** In rectifying a written instrument, the Court may inquire what the instrument was intended to mean, and what were intended to be its legal consequences, and is not confined to the inquiry what the language of the instrument was intended to be.

Specific enforcement of rectified contract.

**34.** A contract in writing may be first rectified, and then, if the plaintiff has so prayed in his plaint, and the Court thinks fit, specifically enforced.

*Illustration.*

A contracts in writing to pay his attorney, B, a fixed sum in lieu of costs. The contract contains mistakes as to the name and rights of the client, which, if construed strictly, would exclude B from all rights under it. B is entitled, if the Court thinks fit, to have it rectified, and to an order for payment of the sum, as if at the time of its execution it had expressed the intention of the parties.

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## CHAPTER IV.

### Of the Rescission of Contracts.

When rescission may be adjudged.

**35.** Any person interested in a contract in writing may sue to have it rescinded, and such rescission may be adjudged by the Court in any of the following cases, namely :—

(*a*) where the contract is voidable or terminable by the plaintiff;

(*b*) where the contract is unlawful for causes not apparent on its face, and the defendant is more to blame than the plaintiff;

(*c*) where a decree for specific performance of a contract of sale, or of a contract to take a lease, has been made, and the purchaser or lessee makes default in payment of the purchase-money or other sums which the Court has ordered him to pay.

When the purchaser or lessee is in possession of the subject-matter, and the Court finds that such possession is wrongful, the Court may also order him to pay to the vendor or lessor the rents and profits, if any, received by him as such possessor.

In the same case, the Court may by order in the suit in which the decree has been made and not complied with, rescind the contract either so far as regards the party in default, or altogether, as the justice of the case may require.

*Illustrations.*

to (*a*).—A sells a field to B. There is a right of way over the field of which A has direct personal knowledge, but which he conceals from B. B is entitled to have the contract rescinded.

to (*b*).—A, an attorney, induces his client B, a Hindu widow, to transfer property to him for the purpose of defrauding B's creditors. Here the parties are not equally in fault, and B is entitled to have the instrument of transfer rescinded.

Rescission for mistake.

**36.** Rescission of a contract in writing cannot be adjudged for mere mistake unless the party against whom it is adjudged can be restored to substantially the same position as if the contract had not been made.

NOTE.—The words "in writing" in Sections 35 and 36 have been repealed by Act IV of 1882 in the territories to which that Act extends.

Alternative prayer for rescission in suit for specific performance.

**37.** A plaintiff instituting a suit for the specific performance of a contract in writing may pray in the alternative that, if the contract cannot be specifically enforced, it may be rescinded and delivered up to be cancelled; and the Court if it refuses to enforce the contract specifically, may direct it to be rescinded and delivered up accordingly.

Court may require party rescinding to do equity.

**38.** On adjudging the rescission of a contract, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

## CHAPTER V.

### Of the Cancellaton of Instruments.

When cancellation may be ordered.

**39.** An yperson against whom a written instrument is void or voidable, who has reasonable apprehension that such instrument, if left outstanding, may cause him serious injury, may sue to have it adjudged void or voidable, and the Court may, in its discretion, so adjudge it, and order it to be delivered up and cancelled.

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If the instrument has been registered under the Registration Act, the Court shall also send a copy of its decree to the officer in whose office the instrument has been so registered, and such officer shall note on the copy of the instrument contained in his books the fact of its cancellation.

*Illustrations.*

(*a*). A, the owner of a ship, by fraudulently representing her to be seaworthy, induces B, an underwriter, to insure her. B may obtain the cancellation of the policy.

(*b*). A conveys land to B, who bequeaths it to C and dies. Thereupon D gets possession of the land and produces a forged instrument stating that the conveyance was made to B in trust for him C may obtain the cancellation of the forged instrument.

(*c*). A, representing that the tenants on his land were all at will, sells it to B, and conveys it to him by an instrument dated the 1st January 1877. Soon after that day, A fraudulently grants to C a lease of part of the lands dated 1st October 1876, and procures the lease to be registered under the Indian Registration Act. B may obtain the cancellation of this lease.

(*d*). A agrees to sell and deliver a ship to B, to be paid for by B's acceptance of four bills of exchange, for sums amounting to Rs. 30,000, to be drawn by A on B. The bills are drawn and accepted, but the ship is not delivered, according to the agreement. A sues B on one of the bills. B may obtain the cancellation of all the bills.

What instruments may be partially cancelled.

40. Where an instrument is evidence of different rights or different obligations, the Court may, in a proper case, cancel it in part, and allow it to stand for the residue.

*Illustration.*

A draws a bill on B, who endorses it to C, by whom it appears to be endorsed to D, who endorses it to E. C's endorsement is forged. C is entitled to have such endorsement cancelled, leaving the bill to stand in other respects.

Power to require party for whom instrument is cancelled to make compensation.

41. On adjudging the cancellation of an instrument, the Court may require the party to whom such relief is granted to make any compensation to the other which justice may require.

## CHAPTER VI.

### OF DECLARATORY DECREES.

Discretion of Court as to declaration of status, or right.

42. Any person entitled to any legal character, or to any right as to any property, may institute a suit against any person denying, or interested to deny, his title to such character or right, and the Court may in its discretion make therein a declaration that he is so entitled, and the plaintiff need not in such suit ask for any further relief :

Bar to such declaration.

Provided that no Court shall make any such declaration where the plaintiff, being able to seek further relief than a mere declaration of title, omits to do so.

EXPLANATION.—A trustee of property is a 'person interested to deny' a title adverse to the title of some one who is not in existence, and for whom, if in existence, he would be a trustee.

*Illustrations.*

(*a*). A is lawfully in possession of certain land. The inhabitants of a neighbouring village claim a right of way across the land. A may sue for a declaration that they are not entitled to the right so claimed.

(*b*). A bequeaths his property to B, C, and D 'to be equally divided amongst all and each of them, if living at the time of my death, then amongst their surviving children.' No such children are in existence. In a suit against A's executor, the Court may declare whether B, C, and D took the property absolutely, or only for their lives, and it may also declare the interests of the children before their rights are vested.

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(c). A covenants, that if he should at any time be entitled to property exceeding one lakh of rupees, he will settle it upon certain trusts. Before any such property accrues, or any persons entitled under the trusts are ascertained, he institutes a suit to obtain a declaration that the covenant is void for uncertainty. The Court may make the declaration.

(d). A alienates to B property in which A has merely a life-interest. The alienation is invalid as against C, who is entitled as reversioner. The Court may in a suit by C against A and B declare that C is so entitled.

(e). The widow of a sonless Hindu alienates part of the property of which she is in possession as such. The person presumptively entitled to possess the property if he survive her, may, in a suit against the alienee, obtain a declaration that the alienation was made without legal necessity, and was therefore void beyond the widow's lifetime.

(f). A Hindu widow in possession of property adopts a son to her deceased husband. The person presumptively entitled to possession of the property on her death without a son may, in a suit against the adopted son, obtain a declaration that the adoption was invalid.

(g). A is in possession of certain property. B, alleging that he is the owner of the property, requires A to deliver it to him. A may obtain a declaration of his right to hold the property.

(h). A bequeaths property to B for his life, with remainder to B's wife and her children, if any, by B, but if B die without any wife or children, to C. B has a putative wife, D, and children, but C denies that B and D were ever lawfully married. D and her children may, in B's lifetime, institute a suit against C and obtain therein a declaration that they are truly the wife and children of B.

Effect of declaration.

**43.** A declaration made under this chapter is binding only on the parties to the suit, persons claiming through them respectively, and, where any of the parties are trustees, on the persons for whom, if in existence at the date of the declaration, such parties would be trustees.

*Illustration.*

A, a Hindu, in a suit to which B, his alleged wife, and her mother, are defendants, seeks a declaration that his marriage was duly solemnized, and an order for the restitution of his conjugal rights. The Court makes the declaration and order. C, claiming that B is his wife, then sues A for the recovery of B. The declaration made in the former suit is not binding upon C.

## CHAPTER VII.

### Of the Appointment of Receivers.

Appointment of receivers discretionary.

**44.** The appointment of a receiver pending a suit is a matter resting in the discretion of the Court.

Reference to Code of Civil Procedure.

The mode and effect of his appointment, and his rights, powers, duties and liabilities, are regulated by the Code of Civil Procedure.

## CHAPTER VIII.

### Of the Enforcement of Public Duties.

Power to order public servants and others to do certain specific acts.

Exemptions from such power.

**45.** Any of the High Courts of Judicature at Fort William, Madras, and Bombay may make an order requiring any specific act to be done or forborne, within the local limits of its ordinary original civil jurisdiction, by any person holding a public office, whether of a permanent or a temporary nature, or by any corporation or inferior Court of Judicature : provided—

(a) that an application for such order be made by some person whose property, franchise, or personal right would be injured by the forbearing or doing (as the case may be) of the said specific act ;

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(*b*) that such doing or forbearing is, under any law for the time being in force, clearly incumbent on such person or Court in his or its public character, or on such corporation in its corporate character ;

(*c*) that, in the opinion of the High Court, such doing or forbearing is consonant to right and justice ;

(*d*) that the applicant has no other specific and adequate legal remedy ; and

(*e*) that the remedy given by the order applied for will be complete.

Nothing in this section shall be deemed to authorize any High Court—

(*f*) to make any order binding on the Secretary of State for India in Council, on the Governor-General in Council, on the Governor of Madras in Council, on the Governor of Bombay in Council, or on the Lieutenant-Governor of Bengal ;

(*g*) to make any order on any other servant of the Crown, as such, merely to enforce the satisfaction of a claim upon the Crown ; or

(*h*) to make any order which is otherwise expressly excluded by any law for the time being in force.

Application how made.

Procedure thereon.

**46.** Every application under Section 45 must be founded on an affidavit of the person injured, stating his right in the matter in question, his demand of justice and the denial thereof ; and the High Court may, in its discretion, make the order applied for absolute in the first instance, or refuse it, or grant a rule to show cause why the order applied for should not be made.

Order in alternative.

If, in the last case, the person, Court, or corporation complained of shows no sufficient cause, the High Court may first make an order in the alternative, either to do or forbear the act mentioned in the order, or to signify some reason to the contrary and make an answer thereto by such day as the High Court fixes in this behalf.

Peremptory order.

**47.** If the person, Court or corporation, to whom or to which such order is directed makes no answer, or makes an insufficient or a false answer, the High Court may then issue a peremptory order to do or forbear the act absolutely.

Execution of, and appeal from, orders.

**48.** Every order under this chapter shall be executed, and may be appealed from, as if it were a decree made in the exercise of the ordinary original civil jurisdiction of the High Court.

Costs.

**49.** The costs of all applications and orders under this chapter shall be in the discretion of the High Court.

Bar to issue of *mandamus*.

**50.** Neither the High Court nor any Judge thereof shall hereafter issue any writ of *mandamus*.

Power to frame rules.

**51.** Each of the said High Courts shall, as soon as conveniently may be, frame rules to regulate the procedure under this chapter ; and until such rules are framed, the practice of such Court as to applications for and grants of writs of *mandamus* shall apply, so far as may be practicable, to applications and orders under this chapter.

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## PART III.—OF PREVENTIVE RELIEF.

### CHAPTER IX.

OF INJUNCTIONS GENERALLY.

Preventive relief how granted.

52. Preventive relief is granted at the discretion of the Court by injunction, temporary or perpetual.

Temporary injunctions.

53. Temporary injunctions are such as are to continue until a specified time, or until the further order of the Court. They may be granted at any period of a suit, and are regulated by the Code of Civil Procedure.

Perpetual injunctions.

A perpetual injunction can only be granted by the decree made at the hearing and upon the merits of the suit: the defendant is thereby perpetually enjoined from the assertion of a right, or from the commission of an act, which would be contrary to the rights of the plaintiff.

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### CHAPTER X.

OF PERPETUAL INJUNCTIONS.

Perpetual injunctions when granted.

54. Subject to the other provisions contained in, or referred to by, this chapter, a perpetual injunction may be granted to prevent the breach of an obligation existing in favour of the applicant, whether expressly or by implication.

When such obligation arises from contract, the Court shall be guided by the rules and provisions contained in Chapter II of this Act.

When the defendant invades or threatens to invade the plaintiff's right to, or enjoyment of, property, the Court may grant a perpetual injunction in the following cases (namely):—

(*a*) where the defendant is trustee of the property for the plaintiff;

(*b*) where there exists no standard for ascertaining the actual damage caused, or likely to be caused, by the invasion;

(*c*) where the invasion is such that pecuniary compensation would not afford adequate relief;

(*d*) where it is probable that pecuniary compensation cannot be got for the invasion;

(*e*) where the injunction is necessary to prevent a multiplicity of judicial proceedings.

EXPLANATION.—For the purpose of this section a trademark is property.

*Illustrations.*

(*a*). A lets certain land to B, and contracts not to dig sand or gravel thereout. A may sue for an injunction to restrain B from digging in violation of his contract.

(*b*). A trustee threatens a breach of trust. His co-trustees, if any, should, and the beneficial owners may, sue for an injunction to prevent the breach.

(*c*). The directors of a public company are about to pay a dividend out of capital or borrowed money. Any of the shareholders may sue for an injunction to restrain them.

(*d*). The directors of a fire and life-insurance company are about to engage in marine insurances. Any of the shareholders may sue for an injunction to restrain them.

(*e*). A, an executor, through misconduct or insolvency is bringing the property of the deceased into danger. The Court may grant an injunction to restrain him from getting in the assets.

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(*f*). A, a trustee for B, is about to make an imprudent sale of a small part of the trust-property. B may sue for an injunction to restrain the sale, even though compensation in money would have afforded him adequate relief.

(*g*). A makes a settlement (not founded on marriage or other valuable consideration) of an estate on B and his children. A then contracts to sell the estate to C. B or any of his children may sue for an injunction to restrain the sale.

(*h*). In the course of A's employment as a vakil, certain papers belonging to his client, B, come into his possession. A threatens to make these papers public, or to communicate their contents to a stranger. B may sue for an injunction to restrain A from so doing.

(*i*). A is B's medical adviser. He demands money of B which B declines to pay. A then threatens to make known the effect of B's communications to him as a patient. This is contrary to A's duty, and B may sue for an injunction to restrain him from so doing.

(*j*). A, the owner of two adjoining houses, lets one to B and afterwards lets the other to C. A and C begin to make such alterations in the house let to C as will prevent the comfortable enjoyment of the house let to B. B may sue for an injunction to restrain them from so doing.

(*k*). A lets certain arable lands to B for purposes of husbandry, but without any express contract as to the mode of cultivation. Contrary to the mode of cultivation customary in the district, B threatens to sow the lands with seed injurious thereto and requiring many years to eradicate. A may sue for an injunction to restrain B from sowing the lands in contravention of his implied contract to use them in a husbandlike manner.

(*l*). A, B, and C are partners, the partnership being determinable at will. A threatens to do an act tending to the destruction of the partnership-property. B and C may, without seeking a dissolution of the partnership, sue for an injunction to restrain A from doing the act.

(*m*). A, a Hindu widow in possession of her deceased husband's property, commits destruction of the property without any cause sufficient to justify her in so doing. The heir-expectant may sue for an injunction to restrain her.

(*n*). A, B, and C are members of an undivided Hindu family. A cuts timber growing on the family-property, and threatens to destroy part of the family-house and to sell some of the family-utensils. B and C may sue for an injunction to restrain him.

(*o*). A, the owner of certain houses in Calcutta, becomes insolvent. B buys them from the official assignee and enters into possession. A persists in trespassing on and damaging the houses and B is thereby compelled, at considerable expense, to employ men to protect the possession. B may sue for an injunction to restrain further acts of trespass.

(*p*). The inhabitants of a village claim a right of way over A's land. In a suit against several of them, A obtains a declaratory decree that his land is subject to no such right. Afterwards each of the other villagers sues A for obstructing his alleged right of way over the land. A may sue for an injunction to restrain them.

(*q*) A, in an administration-suit to which a creditor, B, is not a party, obtains a decree for the administration of C's assets. B proceeds against C's estate for his debt. A may sue for an injunction to restrain B.

(*r*). A and B are in possession of contiguous lands and of the mines underneath them. A works his mine so as to extend under B's mine and threatens to remove certain pillars which help to support B's mine. B may sue for an injunction to restrain him from so doing.

(*s*). A rings bells or makes some other unnecessary noise so near a house as to interfere materially and unreasonably with the physical comfort of the occupier, B. B may sue for an injunction restraining A from making the noise.

(*t*). A pollutes the air with smoke so as to interfere materially with the physical comfort of B and C, who carry on business in a neighbouring house. B and C may sue for an injunction to restrain the pollution.

(*u*). A infringes B's patent. If the Court is satisfied that the patent is valid and has been infringed, B may obtain an injunction to restrain the infringement.

(*v*). A pirates B's copyright. B may obtain an injunction to restrain the piracy, unless the work of which copyright is claimed is libellous or obscene.

(*w*). A improperly uses the trademark of B. B may obtain an injunction to restrain the user, provided that B's use of the trademark is honest.

(*x*). A, a tradesman, holds out B as his partner against the wish and without the authority of B. B may sue for an injunction to restrain A from so doing.

(*y*). A, a very eminent man, writes letters on family-topics to B. After the death of A and B, C, who is B's residuary legatee, proposes to make money by publishing A's letters. D, who is A's executor, has a property in the letters, and may sue for an injunction to restrain C from publishing them.

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(z). A carries on a manufactory and B is his assistant. In the course of his business, A imparts to B a secret process of value. B afterwards demands money of A, threatening in case of refusal, to disclose the process to C, a rival manufacturer. A may sue for an injunction to restrain B from disclosing the process.

Mandatory injunctions.

**55.** When, to prevent the breach of an obligation, it is necessary to compel the performance of certain acts which the Court is capable of enforcing, the Court may in its discretion grant an injunction to prevent the breach complained of, and also to compel performance of the requisite acts.

*Illustrations.*

(a). A, by new buildings, obstructs lights to the access and use of which B has acquired a right under the Indian Limitation Act, Part IV. B may obtain an injunction, not only to restrain A from going on with the buildings, but also to pull down so much of them as obstructs B's lights.

(b). A builds a house with eaves projecting over B's land. B may sue for an injunction to pull down so much of the eaves as so project.

(c). In the case put as illustration (i) to section 54, the Court may also order all written communications made by B, as patient, to A, as medical adviser, to be destroyed.

(d). In the case put as illustration (y) to section 54, the Court may also order A's letters to be destroyed.

(e). A threatens to publish statements concerning B which would be punishable under Chapter XXI of the Indian Penal Code. The Court may grant an injunction to restrain the publication, even though it may be shown not to be injurious to B's property.

(f). A, being B's medical adviser, threatens to publish B's written communications with him, showing that B has led an immoral life. B may obtain an injunction to restrain the publication.

(g). In the cases, put as illustrations (v) and (w) to section 54, and as illustrations (e) and (f) to this section, the Court may also order the copies produced by piracy, and the trademarks statements, and communications, therein respectively mentioned, to be given up or destroyed.

Injunction when refused.

**56.** An injunction cannot be granted—

(a) to stay a judicial proceeding pending at the institution of the suit in which the injunction is sought, unless such restraint is necessary to prevent a multiplicity of proceedings;

(b) to stay proceedings in a Court not subordinate to that from which the injunction is sought;

(c) to restrain persons from applying to any legislative body;

(d) to interfere with the public duties of any department of the Government of India or the Local Government, or with the sovereign acts of a Foreign Government;

(e) to stay proceedings in any criminal matter;

(f) to prevent the breach of a contract the performance of which would not be specifically enforced;

(g) to prevent, on the ground of nuisance, an act of which it is not reasonably clear that it will be a nuisance;

(h) to prevent a continuing breach in which the applicant has acquiesced;

(i) when equally efficacious relief can certainly be obtained by any other usual mode of proceeding, except in case of breach of trust;

(j) when the conduct of the applicant or his agents has been such as to disentitle him to the assistance of the Court;

(k) where the applicant has no personal interest in the matter.

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*Illustrations.*

(*a*). A seeks an injunction to restrain his partner, B, from receiving the partnership-debts and effects. It appears that A had improperly possessed himself of the books of the firm, and refused B access to them. The Court will refuse the injunction.

(*b*). A manufactures and sells crucibles, designating them as "patent plumbago crucibles," though, in fact, they have never been patented. B pirates the designation. A cannot obtain an injunction to restrain the piracy.

(*c*). A sells an article called "Mexican Balm," stating that it is compounded of divers rare essences, and has sovereign medicinal qualities. B commences to sell a similar article to which he gives a name and description such as to lead people into the belief that they are buying A's Mexican Balm. A sues B for an injunction to restrain the sale. B shows that A's Mexican Balm consists of nothing but scented hog's lard. A's use of his description is not an honest one, and he cannot obtain an injunction.

Injunction to perform negative agreement.

**57.** Notwithstanding Section 56, clause (*f*), where a contract comprises an affirmative agreement to do a certain act, coupled with a negative agreement, express or implied, not to do a certain act, the circumstance that the Court is unable to compel specific performance of the affirmative agreement, shall not preclude it from granting an injunction to perform the negative agreement; provided that the applicant has not failed to perform the contract so far as it is binding on him.

*Illustrations.*

(*a*). A contracts to sell to B for Rs. 1,000 the good-will of a certain business unconnected with business-premises, and further agrees not to carry on that business in Calcutta. B pays A the Rs. 1,000 but A carries on the business in Calcutta. The Court cannot compel A to send his customers to B, but B may obtain an injunction restraining A from carrying on the business in Calcutta.

(*b*). A contracts to sell to B the good-will of a business. A then sets up a similar business close by B's shop, and solicits his old customers to deal with him. This is contrary to his implied contract, and B may obtain an injunction to restrain A from soliciting the customers, and from doing any act whereby their good-will may be withdrawn from B.

(*c*). A contracts with B to sing for twelve months at B's theatre and not to sing in public elsewhere. B cannot obtain specific performance of the contract to sing, but he is entitled to an injunction restraining A from singing at any other place of public entertainment.

(*d*). B contracts with A that he will serve him faithfully for twelve months as a clerk. A is not entitled to a decree for specific performance of this contract. But he is entitled to an injunction restraining B from serving a rival-house as clerk.

(*e*). A contracts with B that in consideration of Rs. 1,000 to be paid to him by B on a day fixed, he will not set up a certain business within a specified distance. B fails to pay the money. A cannot be restrained from carrying on the business within the specified distance.

## SCHEDULE.

*(See section 2).*

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

| Number and year. | Subject. | Extent of repeal. |
|---|---|---|
| VIII of 1859. | Civil Procedure ... ... ... ... ... | Sections 15 and 192 |
| XIV of 1859 | Limitation ... ... ... ... | Section 15. |
| XXIII of 1861 | Civil Procedure ... ... ... ... ... | Section 26. |
| IX of 1872 | Contract ... ... ... ... ... ... | In Section 28, the second clause of Exception 1. |

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## ACT No. II of 1877.

*(Passed on the 14th February 1877).*

An Act to amend Act No. XIII of 1875.

Whereas it is expedient to define the expression 'High Court' as used in Act No. XIII of 1875 ( *to amend the law relating to Probates and Letters of Administration*) , Sections 2, 3 and 4 ; It is hereby enacted as follows :—

'High Court' defined in Act XIII of 1875, sections 3 and 4.

1. The expression 'High Court' in each of the said sections shall mean, and be deemed to have always meant—

(*a*) a High Court for the time being established under the twenty-fourth and twenty-fifth of Victoria, chapter 104 :

(*b*) the Chief Court of the Punjab :

(*c*) the Court of the Recorder of Rangoon.

Saving of certain grants of probate and administration.

2. Nothing in this Act shall be deemed to affect the validity of any grant of probate or letters of administration with effect throughout the whole of British India heretofore made by any Court other than the Courts specified in section one.

## ACT No. III of 1877.

*(Passed on the 14th February 1877).*

An Act for the Registration of Documents.

Preamble.

Whereas it is expedient to amend the law relating to the registration of documents ; It is hereby enacted as follows :—

### PART I.—PRELIMINARY.

Short title.

1. This Act may be called "The Indian Registration Act, 1877."

Local extent.

It extends to the whole of British India, except such districts or tracts of country as the Local Government may, from time to time, with the previous sanction of the Governor-General in Council, exclude from its operation ;

Commencement.

And it shall come into force on the first day of April 1877.

Repeal of enactments.

2. On and from that day Act No. VIII of 1871 shall be repealed.

But all appointments, notifications, rules, and orders made, and all districts and sub-districts formed, and all offices established, and all tables of fees prepared under such Act or any of the enactments thereby repealed, shall be deemed to have been respectively made, formed, established, and prepared under this Act, except in so far as such rules and orders may be inconsistent herewith.

References made in Acts passed before the first day of April 1877 to the said Act, or to any enactment thereby repealed, shall be read as if made to the corresponding section of this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context—

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"Lease" includes a counterpart, kabuliyat, an undertaking to cultivate or occupy, and an agreement to lease :

"Signature" and "signed" include and apply to the affixing of a mark :

"Immoveable property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries, or any other benefit to arise out of land, and things attached to the earth or permanently fastened to any thing which is attached to the earth, but not standing timber, growing crops, nor grass :

"Moveable property" includes standing timber, growing crops and grass, fruit upon and juice in trees, and property of every other description, except immoveable property :

"Book" includes a portion of a book, and also any number of sheets connected together with a view of forming a book or a portion of a book :

"Endorsement" and "endorsed" include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act :

"Minor" means a person who, according to the personal law to which he is subject, has not attained majority :

"Representative" includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot :

"Addition" means the place of residence, and the profession, trade, rank, and title (if any) of a person described, and, in the case of a Native, his caste ( if any ) and his father's name, or, where he is usually described as the son of his mother, then his mother's name :

"District Court" includes the High Court in its ordinary original civil jurisdiction ; and

"District" and "sub-district" respectively mean a district and sub-district formed under this Act.

## PART II.—OF THE REGISTRATION ESTABLISHMENT.

Inspector-General of Registration.

4. The Local Government shall appoint an officer to be the Inspector-General of Registration for the territories subject to such Government,

or may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector-General shall be exercised and performed by such officer or officers and within such local limits, as the Local Government from time to time appoints in this behalf.

Branch Inspector-General of Sindh.

The Governor of Bombay in Council may also, with the previous consent of the Governor-General in Council, appoint an officer to be Branch Inspector-General of Sindh, who shall have all the powers of an Inspector-General under this Act other than the power to frame rules hereinafter conferred.

Any Inspector-General or the Branch Inspector-General of Sindh may hold simultaneously any other office under Government.

Districts and sub-districts.

5. For the purposes of this Act, the Local Government shall form districts and sub-districts, and shall prescribe, and may from time to time alter, the limits of such districts and sub-districts.

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The districts and sub-districts formed under this section, together with the limits thereof, and every alteration of such limits, shall be notified in the local official Gazette.

Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

NOTE.—See Note (*a*) at the end of this Act.

Registrars and sub-registrars.

**6.** The Local Government may appoint such persons, whether public officers or not, as it thinks proper, to be registrars of the several districts, and to be sub-registrars of the several sub-districts, formed as aforesaid, respectively.

NOTE.—See Note (*b*) at the end of the Act.

Offices of registrar and sub-registrar.

**7.** The Local Government shall establish in every district an office to be styled the office of the registrar, and in every sub-district an office or offices to be styled the office of the sub-registrar, or the offices of the joint sub-registrars, and may amalgamate with any office of a registrar any office of a sub-registrar subordinate to such registrar,

and may authorize any sub-registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the registrar to whom he is subordinate :

Provided that no such authorization shall enable a sub-registrar to hear an appeal against an order passed by himself under this Act.

NOTE.—See Note (*b*) at the end of the Act.

Inspectors of registration offices.

**8.** The Local Government may also appoint officers to be called inspectors of registration offices, and may from time to time prescribe the duties of such officers. Every such inspector shall be subordinate to the Inspector-General.

Military cantonments may be declared sub-districts or districts.

**9.** Every military cantonment where there is a Cantonment Magistrate may (if the Local Government so directs) be for the purposes of this Act, a sub-district or a district, and such Magistrate shall be the sub-registrar or the registrar of such sub-district or district, as the case may be.

Whenever the Governor-General in Council declares any military cantonment beyond the limits of British India to be a sub-district or a district for the purposes of this Act, he shall also declare, in the case of a sub-district, what authorities shall be registrar of the district and Inspector-General, and in the case of a district, what authority shall be Inspector-General with reference to such cantonment and the sub-registrar or registrar thereof.

Absence of registrar from his district or vacancy in his office.

**10.** Whenever any registrar other than the registrar of a district, including a presidency town, is absent otherwise than on duty in his district, or when his office is temporarily vacant,

any person whom the Inspector-General appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the registrar's office is situate,

shall be the registrar during such absence or until the Local Government fills up the vacancy.

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Whenever the registrar of a district, including a presidency town, is absent otherwise than on duty in his district, or when his office is temporarily vacant,

any person whom the Inspector-General appoints in this behalf shall be the registrar during such absence, or until the Local Government fills up the vacancy.

Absence of registrar on duty in his district.

11. Whenever any registrar is absent from his office on duty in his district, he may appoint any sub-registrar or other person in his district to perform, during such absence, all the duties of a registrar, except those mentioned in Sections 68 and 72.

Absence of sub-registrar or vacancy in his office.

12. Whenever any sub-registrar is absent, or when his office is temporarily vacant, any person whom the registrar of the district appoints in this behalf shall be sub-registrar during such absence, or until the Local Government fills up the vacancy.

Appointments under Section 10, 11, or 12 to be reported to Government.

13. All appointments made under Section 10, Section 11, or Section 12 shall be reported to the Local Government by the Inspector-General. Such report shall be either special or general, as the Local Government directs.

Suspension, removal and dismissal of officers.

The Local Government may suspend, remove, or dismiss any person appointed under the provisions of this Act, and appoint another person in his stead.

Remuneration, and establishments of registering officers.

14. Subject to the approval of the Governor-General in Council, the Local Government may assign such salaries as such Government from time to time deems proper to the registering officers appointed under this Act, or provide for their remuneration by fees, or partly by fees and partly by salaries.

The Local Government may allow proper establishments for the several offices under this Act.

NOTE.—The subject of the remuneration of Tahsildars, who perform the duties of Sub-Registrars of Assurances under the Indian Registration Act (VIII) of 1871, has been under the consideration of the Hon'ble the Lieutenant-Governor.

2. At present Tahsildars, who are registering officers, are allowed half the fees on the documents registered by them on the first Rs. 50 of their collections in a month, and one quarter of any collections in excess of Rs 50.

3. Experience has shown that the system of remunerating Tahsildar Sub-Registrars by a share of the fees collected is highly inconvenient, as difficulties are thereby placed in the way of transferring Tahsildars from one tahsil to another according to the requirements of the administration,—such transfers being in many cases impossible under present arrangements without inflicting upon the official transferred a pecuniary loss which he does not deserve, or giving him an increase of income beyond his merits.

4. It is accordingly resolved by the Hon'ble the Lieutenant-Governor, with the approval of the Government of India, that on and after the commencement of the official year 1874-75 and until further orders, the present system whereby Tahsildar Sub-Registrars are remunerated by a share of the fees shall be abolished. From the date above named the whole amount of the fees collected in tahsil sub-registry offices will be credited to the Provincial Service Funds, and an allowance of 10 per cent on their salaries will be made to all Tahsildars in consideration of their performing registry duties when so required. This extra allowance will be charged to Provincial Funds, and will not be taken into consideration in calculating pensions.

5. Tahsildars will draw the above allowance of 10 per cent on their salaries, whether present in, or absent from, head-quarters; in the latter case the Naib-Tahsildar should, if necessary, be appointed to officiate for him, in which case the Naib-Tahsildar will receive 20 per cent on his salary during the period he officiates for the Tahsildar. District officers will of course take care that this liberal arrangement whereby the Tahsildar is secured a continuance of his allowance when absent from head-quarters is not abused.—(*No. 307, dated 19th January 1874—Puniab Gazette of 22nd idem, page 25*).

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Seals of registering officers.

**15.** The several registrars and sub-registrars shall use a seal bearing the following inscription in English and in such other language as the Local Government directs:—"The seal of the registrar (*or* of the sub-registrar) of."

Register-books.

**16.** The Local Government shall provide for the office of every registering officer the books necessary for the purposes of this Act.

Forms.

The books so provided shall contain the forms from time to time prescribed by the Inspector-General, with the sanction of the Local Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

Fire-proof boxes.

The Local Government shall supply the office of every registrar with a fire-proof box, and shall in each district make suitable provisions for the safe custody of the records connected with the registration of documents in such district.

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## PART III.—OF REGISTRABLE DOCUMENTS.

Documents of which registration is compulsory.

**17.** The documents next hereinafter mentioned shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which Act No. XVI of 1864, or Act No. XX of 1866, or Act No. VIII of 1871, or this Act, came or comes into force (that is to say),—

(*a*) Instruments of gift of immoveable property:

(*b*) Other non-testamentary instruments which purport or operate to create, declare, assign, limit, or extinguish, whether in present or in future, any right, title, or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immoveable property:

(*c*) Non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation, or extinction of any such right, title, or interest; and

(*d*) Leases of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent:

Provided that the Local Government may, by order published in the official Gazette, exempt from the operation of the former part of this section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years, and the annual rents reserved by which do not exceed fifty rupees.

NOTE.—Under the authority conferred by the proviso to clause (*d*), Section 17, of the Indian Registration Act, 1877, the Lieutenent-Governor is pleased to exempt from the operation of clause (*d*) of that section (that is from compulsory registration) agricultural leases executed in any district of the Punjab, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed Rs. 50. (*Punjab Governmen t Notification No.* 29, *dated* 4*th July* 1888, *Punjab Gazette of* 5*th idem, Part* 1, *p.* 475).

Exception of composition deeds;

Nothing in clauses (*b*) and (*c*) of this section applies to (*e*) any composition-deed,

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(*f*) any instrument relating to shares in a joint-stock company, notwithstanding that the assets of such company consist in whole or in part of immoveable property, or

and of transfers of shares and debentures in land companies.

(*ff*) any debenture issued by any such company and not creating, declaring, assigning, limiting, or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or

NOTE.—The above clause has been added by Act VII of 1886, Section 2.

(*g*) any endorsement upon or transfer of any debenture issued by any such company,

(*h*) any document not itself creating, declaring, assigning, limiting or extinguishing any right, title or interest of the value of one hundred rupees and upwards to or in immoveable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit, or extinguish any such right, title or interest ;

Documents merely creating right to obtain other documents.

(*i*) decrees and orders of Courts and awards ;

(*j*) grants of immoveable property by Government ;

(*k*) instruments of partition made by revenue officers ;

(*l*) orders granting loans and instruments of collateral security granted under the Land Improvement Loans Act, 1883.

NOTE.—Clause (*l*) is as amended by Act XIX of 1883, Section 12.

(*m*) orders granting loans under the Agriculturists' Loans Act, 1884, and instruments for securing the repayment of loans made under that Act ;

(*n*) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage ;

NOTE.—Clauses (*m*) and (*n*) have been added by Act VII of 1886.

(*o*) a certificate of sale granted to the purchaser of any property sold by public auction by a civil or revenue officer.

NOTE.—Clause (*o*) has been added by Act VII of 1888.

Authorities to adopt a son, executed after the first day of January 1872, and not conferred by a will, shall also be registered.

Authorities to adopt.

Documents of which registration is optional.

**18.** Any of the documents next hereinafter mentioned may be registered under this Act (that is to say),

(*a*) Instruments (other than instruments of gift and wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title, or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property :

(*b*) Instruments acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest :

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(c) Leases of immoveable property for any term not exceeding one year, and leases exempted under Section 17 :

(d) Instruments (other than wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in moveable property :

(e) Wills :

(f) All other documents not required by Section 17 to be registered.

Documents in language not understood by registering officer.

**19.** If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation into a language commonly used in the district and also by a true copy.

Documents containing interlineations, blanks, erasures or alterations.

**20.** The registering officer may, in his discretion, refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blank, erasure or alteration. If he register such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

Description of parcels.

**21.** (a) No non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(b) Houses in towns shall be described as situate on the north or other side of the street or road (mentioning it) to which they front, and by their existing and former occupancies, and by their numbers, if the houses in such street or road are numbered. Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which they abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

Documents containing maps or plans.

(c) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it be accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

Failure to comply with rules as to description of houses and land.

**22.** Failure to comply with the provisions contained in Section 21, clause (b), shall not disentitle a document to be registered if the description of the property to which it relates is sufficient to identify such property.

## PART IV.—OF THE TIME OF PRESENTATION.

Time for presenting documents.

**23.** Subject to the provisions contained in Sections 24, 25 and 26, no document other than a will, shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution,

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or, in the case of a copy of a decree or order, within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final:

Provided that, where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

Provision where delay in presentation is unavoidable.

24. If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registrar, in cases where the delay in presentation does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

Any application for such direction may be lodged with a sub-registrar, who shall forthwith forward it to the registrar to whom he is subordinate.

Documents executed out of Britsh India.

25. When a document purporting to have been executed by all or any of the parties out of British India is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied,

(*a*) that the instrument was so executed, and

(*b*) that it has been presented for registration within four months after its arrival in British India,

may, on payment of the proper registration fee, accept such document for registration.

Provision where office is closed on last day of period for presentation.

26. Whenever a registration-office is closed on the last day of any period provided in this Act for the presentation of any document, such last day shall, for the purposes of this Act, be deemed to be the day on which the office re-opens.

Wills may be presented or deposited at any time.

27. A will may at any time be presented for registration or deposited in manner hereinafter provided.

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## PART V.—OF THE PLACE OF REGISTRATION.

Place for registering documents relating to land.

28. Save as in this Part otherwise provided, every document mentioned in Section 17, clauses (*a*), (*b*), (*c*) and (*d*), and Section 18, clauses (*a*), (*b*) and (*c*), shall be presented for registration in the office of a sub-registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

Place for registering other documents.

29. Every document other than a document referred to in Section 28, and a copy of a decree or order, may be presented for registration either in the office of the sub-registrar in whose sub-district the document was executed, or in the office of any other sub-registrar under the Local Government at which all the persons executing and claiming under the document desire the same to be registered.

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A copy of a decree or order may be presented for registration in the office of the sub-registrar in whose sub-district the original decree or order was made, or, where the decree or order does not affect immoveable property, in the office of any other sub-registrar under the Local Government at which all the persons claiming under the decree or order desire the same to be registered.

Registration by registrar.

**30.** (*a*). Any registrar may in his discretion receive and register any document which might be registered by any sub-registrar subordinate to him.

Registration by registrar at presidency town.

(*b*). The registrar of a district including a presidency town and the registrar of the Lahore district may receive and register any document referred to in Section 28 without regard to the situation in any part of British India of the property to which the document relates.

Registration or acceptance for deposit at private residence.

**31.** In ordinary cases the registration or deposit of documents under this Act shall be made only at the office of the officer authorized to accept the same for registration or deposit.

But such officer may, on special cause being shown, attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

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## PART VI.—OF PRESENTING DOCUMENTS FOR REGISTRATION.

Persons to present documents for registration.

**32.** Except in the cases mentioned in Section 31 and Section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office,

by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order,

or by the representative or assign of such person,

or by the agent of such person, representative, or assign, duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

Powers-of-attorney recognizable for purposes of Section 32.

**33.** For the purposes of Section 32, the powers-of-attorney next hereinafter mentioned shall alone be recognized (that is to say),—

(*a*) if the principal at the time of executing the power-of-attorney resides in any part of British India in which this Act is for the time being in force, a power-of-attorney executed before and authenticated by the registrar or sub-registrar within whose district or sub-district the principal resides:

(*b*) if the principal at the time aforesaid resides in any other part of British India, a power-of-attorney executed before and authenticated by any Magistrate:

(*c*) if the principal at the time aforesaid does not reside in British India, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India:

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Provided that the following persons shall not be required to attend at any registration-office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (*a*) and (*b*) of this section:—

Proviso as to persons infirm, or in jail, or exempt from appearing in Court.

persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend;

persons who are in jail under civil or criminal process; and

persons exempt by law from personal appearance in Court.

In every such case the registrar or sub-registrar or Magistrate (as the case may be), if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal, may attest the same without requiring his personal attendance at the office or Court aforesaid.

To obtain evidence as to the voluntary nature of the execution, the registrar or sub-registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

Any power-of-attorney mentioned in this section may be proved by the production of it without further proof, when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

**34.** Subject to the provisions contained in this Part and in Sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns, or agents authorized as aforesaid, appear before the registering officer within the time allowed for presentation under Sections 23, 24, 25 and 26:

Enquiry before registration by registering officer.

Provided that if, owing to urgent necessity or unavoidable accident, all such persons do not so appear, the registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration-fee, in addition to the fine, if any, payable under Section 24, the document may be registered.

Such appearances may be simultaneous or at different times.

The registering officer shall thereupon—

(*a*) enquire whether or not such document was executed by the persons by whom it purports to have been executed,

(*b*) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document, and

(*c*) in the case of any person appearing as a representative, assign, or agent, satisfy himself of the right of such person so to appear.

Any application for a direction under the proviso in this section may be lodged with a sub-registrar, who shall forthwith forward it to the registrar to whom he is subordinate.

Nothing in this section applies to copies of decrees or orders.

**35.** If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document;

Procedure on admission of execution.

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or, in the case of any person appearing by a representative, assign, or agent, if such representative, assign, or agent admits the execution ;

or, if the person executing the document is dead, and his representative or assign appears before the registering officer, and admits the execution,

the registering officer shall register the document as directed in Sections 58 to 61 inclusive.

The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.

Procedure on denial of execution, &c.

If any of the persons by whom the document purports to be executed deny its execution,

or if any such person appears to the registering officer to be a minor, an idiot, or a lunatic,

or if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution,

the registering officer shall refuse to register the document as to the person so denying, appearing, or dead : Provided that, where such officer is a registrar, he shall follow the procedure prescribed in Part XII of this Act.

NOTE.—As amended by Act XII of 1879.

## PART VII.—OF ENFORCING THE APPEARANCE OF EXECUTANTS AND WITNESSES.

Procedure where appearance of executant or witness is desired.

**36.** If any person presenting any document for registration, or claiming under any document which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the Local Government from time to time directs in this behalf to issue a summons requiring him to appear at the registration office, either in person or by duly authorized agent, as in the summons may be mentioned, and at a time named therein.

NOTE.—The Lieutenant-Governor has declared under Section 36, that in cases where it is necessary to issue a summons for the appearance of any person at a Registration Office, the Registering Officer shall apply to the Deputy Commissioner of the district in which the person whose presence is sought is residing for the issue of such summons.—(*Notification No.* 1016, *dated 17th July* 1871—*Punjab Gazette of 20th idem, p.* 895).

Officer or Court to issue and cause service of summons.

**37.** The officer or Court, upon receipt of the peon's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

Persons exempt from appearance at registration office.

**38.** A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office,

a person in jail under civil or criminal process,

and persons exempt by law from personal appearance in Court, and who would, but for the provision next hereinafter contained, be required to appear in person at the registration office,

shall not be required so to appear.

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In every such case, the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

Law as to summonses, commissions and witnesses.

39. The law in force for the time being as to summonses, commissions, and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as aforesaid, and *mutatis mutandis*, apply to any summons or commission issued, and any person summoned to appear under the provisions of this Act.

## Part VIII.—Of Presenting Wills and Authorities to Adopt.

Persons entitled to present wills and authorities to adopt.

40. The testator, or after his death any person claiming as executor or otherwise under a will, may present it to any registrar or sub-registrar for registration,

and the donor, or after his death the donee, of any authority to adopt, or the adoptive son, may present it to any registrar or sub-registrar for registration.

Registration of wills and authorities to adopt.

41. A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

A will or authority to adopt, presented for registration by any other person entitled to present it, shall be registered if the registering officer is satisfied—

(*a*) that the will or authority was executed by the testator or donor, as the case may be;

(*b*) that the testator or donor is dead; and

(*c*) that the person presenting the will or authority is, under Section 40, entitled to present the same.

## Part IX.—Of the Deposit of Wills.

Deposit of wills.

42. Any testator may, either personally or by duly authorized agent, deposit with any registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document.

Procedure on deposit of wills.

43. On receiving such cover, the registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-Book No. 5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day, and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

The registrar shall then place and retain the sealed cover in his fire-proof box.

Withdrawal of sealed cover deposited under Section 42.

44. If the testator who has deposited such cover wishes to withdraw it, he may apply either personally or by duly authorized agent to the registrar who holds it in deposit, and such registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

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45. If, on the death of a testator who has deposited a sealed cover under Section 42, application be made to the registrar who holds it in deposit to open the same, and if the registrar is satisfied that the testator is dead, he shall, in the applicant's presence, open the cover, and, at the applicant's expense, cause the contents thereof to be copied into his Book No. 3.

Proceedings on death of depositor.

When such copy has been made, the registrar shall re-deposit the original will.

Re-deposit.

46. Nothing hereinbefore contained shall affect the provisions of the Indian Succession Act, Section 259, or the power of any Court by order to compel the production of any will. But whenever any such order is made, the registrar shall, unless the will has been already copied under Section 45, open the cover and cause the will to be copied into his Book No. 3, and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

Saving of Act X of 1865, Section 259.

## PART X.—OF THE EFFECTS OF REGISTRATION AND NON-REGISTRATION.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

Time from which registered document operates.

48. All non-testamentary documents duly registered under this Act, and relating to any property whether moveable or immoveable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession.

Registered documents relating to property when to take effect against oral agreements.

49. No document required by Section 17 to be registered,

Effect of non-registration of documents required to be registered.

shall affect any immoveable property comprised therein,

or confer any power to adopt,

or be received as evidence of any transaction affecting such property or conferring such power,

unless it has been registered in accordance with the provisions of this Act.

50. Every document of the kinds mentioned in clauses (*a*), (*b*), (*c*), and (*d*) of Section 17, and clauses (*a*) and (*b*) of Section 18, shall, if duly registered, take effect, as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree or order, whether such unregistered document be of the same nature as the registered document or not.

Registered documents relating to land, of which registration is optional, to take effect against unregistered documents.

Nothing in the former part of this section applies to leases exempted under the proviso in Section 17, or to the documents mentioned in clauses (*e*), (*f*), (*ff*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*), (*m*), (*n*) and (*o*) of the same section.

*Explanation.*—In cases where Act No. XVI of 1864 or Act No. XX of 1866 was in force in the place and at the time in and at which such unregistered document was executed, "unregistered" means not registered

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according to such Act, and, where the document is executed after the first day of July 1871, not registered under Act No. VIII of 1871 or this Act.

NOTE.— The above section has been amended by Act VII of 1886 and Act VII of 1888.

## PART XI.—OF THE DUTIES AND POWERS OF REGISTERING OFFICERS.

### (A). *As to the Register-Books and Indexes.*

Register-books to be kept in the several offices.

51. The following books shall be kept in the several offices hereinafter named (that is to say)—

In all registration offices—

Book 1, "Register of non-testamentary documents relating to immoveable property;"

Book 2, "Record of reasons for refusal to register;"

Book 3, "Register of wills and authorities to adopt;" and

Book 4, "Miscellaneous register."

In the offices of registrars—

Book 5, "Register of deposits of wills."

In Book 1 shall be entered or filed all documents or memoranda registered under Sections 17, 18, and 89* which relate to immoveable property, and are not wills.

In Book 4 shall be entered all documents registered under clauses (*d*) and (*f*) of Section 18, which do not relate to immoveable property.

Nothing in the former part of this section shall be deemed to require more than one set of books where the office of the registrar has been amalgamated with the office of a sub-registrar.

Endorsements on documents presented.

Receipt for document.

Documents admitted to registration to be copied.

52. The day, hour, and place of presentation, and the signature of every person presenting a document for registration, shall be endorsed on every such document at the time of presenting it: a receipt for such document shall be given by the registering officer to the person presenting the same; and, subject to the provisions contained in Section 62, every document admitted to registration shall without unnecessary delay be copied in the book appropriated therefor according to the order of its admission.

And all such books shall be authenticated at such intervals and in such manner as is from time to time prescribed by the Inspector-General.

Entries to be numbered consecutively.

53. All entries in each book shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Current indexes and entries therein.

54. In every office in which any of the books hereinbefore mentioned are kept, there shall be prepared current indexes of the contents of such books; and every entry in such indexes shall be made, so far as practicable, immediately after the registering officer has copied, or filed a memorandum of, the document to which it relates.

* The figures 89 have been substituted for 87 by S. 105 of Act XII of 1879.

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Indexes to be made by registering officers.

55. Four such indexes shall be made in all registration offices, and shall be named, respectively, Index No. I, Index No. II, Index No. III, and Index No. IV.

Index No. I shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No. 1.

Index No. II shall contain such particulars mentioned in Section 21 relating to every such document and memorandum as the Inspector-General from time to time directs in that behalf.

Index No. III shall contain the names and additions of all persons executing every will and authority entered in Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor ( but not before ) the names and additions of all persons claiming under the same.

Index No. IV shall contain the names and additions of all persons executing and of all persons claiming under any document entered in Book No. 4.

Extra particulars in indexes.

Indexes Nos. I, II, III and IV shall contain such other particulars, and shall be prepared in such form, as the Inspector-General from time to time directs.

Copy of entries in Indexes Nos. I, II and III to be sent by sub-registrar to registrar.

56. Every sub-registrar shall send to the registrar to whom he is subordinate, at such intervals as the Inspector-General from time to time directs, a copy of all entries made by such sub-registrar, during the last of such intervals, in Indexes Nos. I, II and III.

Such copy to be filed by registrar.

Every registrar receiving such copy shall file it in his office.

Registering officers to allow inspection of certain books and indexes, and to give certified copies of entries.

57. Subject to the previous payment of the fees payable in that behalf, the Books Nos. 1 and 2, and the indexes relating to Book No. 1, shall be at all times open to inspection by any person applying to inspect the same; and, subject to the provisions of Section 62, copies of entries in such books shall be given to all persons applying for such copies.

Subject to the same provisions, copies of entries in Book No. 3, and in the index relating thereto, shall be given to the persons executing the documents to which such entries relate, or to their agents, and, after the death of the executants (but not before ), to any person applying for such copies.

Subject to the same provisions, copies of entries in Book No. 4, and in the index relating thereto, shall be given to any person executing or claiming under the documents to which such entries respectively refer, or to his agent or representative. The requisite search under this section for entries in Books Nos. 3 and 4 shall be made only by the registering officer.

All copies given under this section shall be signed and sealed by the registering officer, and shall be admissible for the purpose of proving the contents of the original documents.

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*(B). As to the Procedure on admitting to Registration.*

Particulars to be endorsed on documents admitted to registration.

58. On every document admitted to registration, other than a copy of a decree or order, or a copy sent to a registering officer under Section 89, there shall be endorsed from time to time the following particulars, that is to say :—

(*a*) the signature and addition of every person admitting the execution of the document; and, if such execution has been admitted by the representative, assign, or agent of any person, the signature and addition of such representative, assign, or agent:

(*b*) the signature and addition of every person examined in reference to such document under any of the provisions of this Act; and

(*c*) any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence, in reference to such execution.

If any person admitting the execution of a document refuses to endorse the same, the registering officer shall nevertheless register it, but shall at the same time endorse a note of such refusal.

NOTE.—The above section is as amended by Act VII of 1886, Section 3.

Such endorsements to be dated and signed by registering officer.

59. The registering officer shall affix the date and his signature to all endorsements made under Sections 52 and 58, relating to the same document, and made in his presence on the same day.

Certificate showing that document has been registered, and number and page of book in which it has been copied.

60. After such of the provisions of Sections 34, 35, 58 and 59 as apply to any document presented for registration have been complied with, the registering officer shall endorse thereon a certificate containing the word "registered," together with the number and page of the book in which the document has been copied.

Such certificate shall be signed, sealed, and dated by the registering officer, and shall then be admissible for the purpose of proving that the document has been duly registered in manner provided by this Act, and that the facts mentioned in the endorsements referred to in Section 59 have occurred as therein mentioned.

Endorsements and certificate to be copied.

61. The endorsements and certificate referred to and mentioned in Sections 59 and 60 shall thereupon be copied into the margin of the Register Book, and the copy of the map or plan (if any) mentioned in Section 21 shall be filed in Book No. 1.

Document to be returned.

The registration of the document shall thereupon be deemed complete, and the document shall then be returned to the person who presented the same for registration, or to such other person (if any) as he has nominated in writing in that behalf on the receipt mentioned in Section 52.

Procedure on presenting document in language unknown to registering officer.

62. When a document is presented for registration under Section 19, the translation shall be transcribed in the register of documents of the nature of the original, and, together with the copy referred to in Section 19, shall be filed in the registration office.

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The endorsements and certificate respectively mentioned in Sections 59 and 60 shall be made on the original, and for the purpose of making the copies and memoranda required by Sections 57, 64, 65 and 66, the translation shall be treated as if it were the original.

Power to administer oaths.

**63.** Every registering officer may at his discretion administer an oath to any person examined by him under the provisions of this Act.

Record of substance of statements.

He may also at his discretion record a note of the substance of the statement made by each such person, and such statement shall be read over, or (if made in a language with which such person is not acquainted) interpreted to him in a language with which he is acquainted, and if he admits the correctness of such note, it shall be signed by the registering officer.

Every such note so signed shall be admissible for the purpose of proving that the statements therein recorded were made by the persons and under the circumstances therein stated.

(*C*). *Special Duties of Sub-Registrar.*

Procedure on registration of document relating to land situate in several sub-districts.

**64.** Every sub-registrar on registering a non-testamentary document relating to immoveable property not wholly situate in his own sub-district, shall make a memorandum thereof and of the endorsement and certificate (if any) thereon, and send the same to every other sub-registrar subordinate to the same registrar as himself in whose sub-district any part of such property is situate, and such sub-registrar shall file the memorandum in his Book No. 1.

Procedure where document relates to land situate in several districts.

**65.** Every sub-registrar on registering a non-testamentary document relating to immoveable property situate in more districts than one, shall also forward a copy thereof and of the endorsement and certificate (if any) thereon, together with the copy of the map or plan (if any) mentioned in Section 21, to the registrar of every district in which any part of such property is situate other than the district in which his own sub-district is situate.

The registrar, on receiving the same, shall file in his Book No. 1 the copy of the document and the copy of the map or plan (if any), and shall forward a memorandum of the document to each of the sub-registrars subordinate to him within whose sub-district any part of such property is situate; and every sub-registrar receiving such memorandum shall file it in his Book No. 1.

(*D*). *Special Duties of Registrar.*

Procedure on registering documents relating to land.

**66.** On registering any non-testamentary document relating to immoveable property, the registrar shall forward a memorandum of such document to each sub-registrar subordinate to himself in whose sub-district any part of the property is situate.

He shall also forward a copy of such document, together with a copy of the map or plan (if any) mentioned in Section 21, to every other registrar in whose district any part of such property is situate.

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Such registrar on receiving any such copy shall file it in his Book No 1, and shall also send a memorandum of the copy to each of the sub-registrars subordinate to him within whose sub-district any part of the property is situate.

Every sub-registrar receiving any memorandum under this section shall file it in his Book No. 1.

Procedure on registration under Section 30, clause (*b*).

**67.** On any document being registered under Section 30, clause (*b*), a copy of such document and of the endorsements and certificate thereon shall be forwarded to every registrar within whose district any part of the property to which the instrument relates is situate, and the registrar receiving such copy shall follow the procedure prescribed for him in the first clause of Section 66.

(*E*). *Of the Controlling Powers of Registrars and Inspectors-General.*

Registrar to superintend and control sub-registrars.

**68.** Every sub-registrar shall perform the duties of his office under the superintendence and control of the registrar in whose district the office of such sub-registrar is situate.

Every registrar shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any sub-registrar subordinate to him, or in respect of the rectification of any error regarding the book or the office in which any document shall have been registered.

Inspector-General to superintend registration offices. His power to make rules.

**69.** The Inspector-General shall exercise a general superintendence over all the registration offices in the territories under the Local Government, and shall have power from time to time to make rules consistent with this Act—

providing for the safe custody of books, papers, and documents, and also for the destruction of such books, papers, and documents as need no longer be kept ;

declaring what languages shall be deemed to be commonly used in each district ;

declaring what territorial divisions shall be recognized under Section 21;

regulating the amount of fines imposed under Sections 24 and 34, respectively ;

regulating the exercise of the discretion reposed in the registering officer by Section 63 ;

regulating the form in which registering officers are to make memoranda of documents ;

regulating the authentication by registrars and sub-registrars of the books kept in their respective offices under Section 51 ;

declaring the particulars to be contained in Indexes Nos. I, II, III, and IV, respectively ;

declaring the holidays that shall be observed in the registration offices ;

and, generally, regulating the proceedings of the registrars and sub-registrars.

The rules so made shall be submitted to the Local Government for approval, and after they have been approved, they shall be published in the official Gazette and shall then have the same force as if they were inserted in this Act.

NOTE.—For Rules under this section, see Note (*c*) at the end of the Act.

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His power to remit fines.

70. The Inspector-General may also, in the exercise of his discretion, remit wholly or in part the difference between any fine levied under Section 24 or Section 34, and the amount of the proper registration fee.

## PART XII.—OF REFUSAL TO REGISTER.

Reasons for refusal to register to be recorded.

71. Every sub-registrar refusing to register a document,

except on the ground that the property to which it relates is not situate within his sub-district,

shall make an order of refusal and record his reasons for such order in his Book No. 2, and endorse the words "registration refused" on the document; and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded.

No registering officer shall accept for registration a document so endorsed, unless and until, under the provisions hereinafter contained, the document is directed to be registered.

Power to reverse or alter orders of sub-registrar refusing registration on ground other than denial of execution.

72. Except where the refusal is made on the ground of denial of execution, an appeal shall lie against an order of a sub-registrar refusing to admit a document to registration (whether the registration of such document is compulsory or optional) to the registrar to whom such sub-registrar is subordinate, if presented to such registrar within thirty days from the date of the order; and the registrar may reverse or alter such order;

and if the order of the registrar direct the document to be registered, and the document is duly presented for registration within thirty days after the making of such order, the sub-registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in Sections 58,59, and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.

Application where sub-registrar refuses to register on ground of denial of execution.

73. When a sub-registrar has refused to register a document on the ground that any person by whom it purports to be executed, or his representative or assign, denies its execution,

any person claiming under such document, or his representative, assign, or agent authorized as aforesaid, may, within thirty days after the making of the order of refusal, apply to the registrar to whom such sub-registrar is subordinate in order to establish his right to have the document registered.

Such application shall be in writing and shall be accompanied by a copy of the reasons recorded under Section 71, and the statements in the application shall be verified by the applicant in manner required by law for the verification of plaints.

Procedure of registrar on such application.

74. In such case, and also where such denial as aforesaid is made before a registrar in respect of a document presented for registration to him, he shall, as soon as conveniently may be, enquire—

(*a*) whether the document has been executed;

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(*b*) whether the requirements of the law for the time being in force have been complied with on the part of the applicant or person presenting the document for registration, as the case may be, so as to entitle the document to registration.

Order of registrar and procedure thereon.

**75.** If the registrar finds that the document has been executed, and that the said requirements have been complied with, he shall order the document to be registered.

And if the document be duly presented for registration within thirty days after the making of such order, the registering officer shall obey the same and thereupon shall, so far as may be practicable, follow the procedure prescribed in Sections 58, 59, and 60.

Such registration shall take effect as if the document had been registered when it was first duly presented for registration.

The registrar may, for the purpose of any enquiry under Section 74, summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such enquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure.

Refusal by registrar.

**76.** Every registrar refusing—

(*a*) to register a document except on the ground that the property to which it relates is not situate within his district, or that the document ought to be registered in the office of a sub-registrar, or

(*b*) to direct the registration of a document under Section 72 or Section 75,

shall make an order of refusal, and record the reasons for such order in his Book No. 2, and on application made by any person executing or claiming under the document, shall, without unnecessary delay, give him a copy of the reasons so recorded.

No appeal lies from any order under this section or Section 72.

Suit in case of refusal.

**77.** Where the registrar refuses to order the document to be registered under Section 72 or Section 76, any person claiming under such document, or his representative, assign, or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court within the local limits of whose original jurisdiction is situate the office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office, if it be duly presented for registration within thirty days after the passing of such decree; and the provisions contained in the second and third paragraphs of Section 75, shall, *mutatis mutandis*, apply to all documents so presented, and notwithstanding anything contained in this Act, the document shall be receivable in evidence in such suit.

NOTE.—A case has recently come to my notice wherein a Sub-Registrar refused to register an instrument brought to him for that purpose on the insufficient ground that it was void for containing an agreement which was opposed to public policy. As erroneous refusals on grounds somewhat similar to the above are still accordingly made, I desire to remind Registering Officers that when acting in that capacity they are not Judicial Officers and should not usurp the functions of a Court of Law by deciding on the validity or invalidity of the documents presented to them for registration. It has been more than once ruled (see the cases cited at page 40 of Carr Stephen's *Indian Registration Act with notes*, 4th edition) that an officer to whom an instrument is presented for registration, is in no way concerned with its recitals or its possible operation as regards other persons; so long as the provisions of the Act are complied with, he is bound to register the instrument, whatever may be the nature of its contents. (*Registration Circular No. 5 of 1879, dated 13th June* 1879).

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PART XIII.—OF THE FEES FOR REGISTRATION, SEARCHES, AND COPIES.

Fees to be fixed by Local Government.

**78.** Subject to the approval of the Governor-General in Council, the Local Government shall prepare a table of fees payable—

for the registration of documents:
for searching the registers:
for making or granting copies of reasons, entries, or documents, before, on, or after registration:

And of extra or additional fees payable—

for every registration under section thirty:
for the issue of commissions:
for filing translations:
for attending at private residences:
for the safe custody and return of documents:

and for such other matters as appear to the Local Government necessary to effect the purposes of this Act.

Alteration of fees.

The Local Government may from time to time, subject to the like approval, alter such table.

NOTE.—For table of fees see Note (*d*) at end of Act.

Publication of fees.

**79.** A table of the fees so payable shall be published in the official Gazette, and a copy thereof in English and the vernacular language of the district shall be exposed to public view in every registration office.

Fees payable on presentation.

**80.** All fees for the registration of documents under this Act shall be payable on the presentation of such documents.

NOTE.—Section 78 of the Registration Act, VIII of 1871, declares that all fees for the registration of documents under the Act are payable on the presentation of such documents. It further appears that the procedure followed in the various local Governments and administrations in dealing with the fees so received is not uniform, and that in most provinces it is in contravention of the rules of account and audit, inasmuch as the fees are not brought daily to account in the public accounts, but are kept for some time in the personal custody of the registering officers, who occasionally allow refunds of fees out of the money thus retained by them.

2. With a view to putting a stop to this irregular procedure, His Excellency the Governor General in Council is pleased to rule—

1*st*.—That fees on documents presented for registration shall not be retained in the personal custody of any public officer longer than may be absolutely necessary, but shall be dealt with in the same way as other public money and be paid at once into the nearest treasury.

2*nd*.—That in order to provided for refunds being made without unnecessary delay, the local Governments, when a recommendation to that effect is made by the Inspector-General of Registration or officer exercising the powers of an Inspector-General of Registration, may allow to each registering officer a permanent advance of not more than Rs. 20, from which refunds may be made at once, bills in detail for the amount being afterwards submitted in the usual way.

ORDERED, that the foregoing resolution be communicated to the Home Department, the several local Governments, the Comptroller-General, and the several local Accountants-General in independent charge, for information and guidance.—(*Government of India Notification No. 125, dated 9th January 1874, Financial Department—Punjab Gazette of 5th February 1874, p. 41*).

PART XIV.—OF PENALTIES.

Penalty for incorrectly endorsing, copying, translating, or registering documents with intent to injure.

**81.** Every registering officer appointed under this Act, and every person employed in his office for the purposes of this Act, who, being charged with the endorsing, copying, translating, or registering of any document presented or deposited under its provisions, endorses, copies, translates or registers such document in a manner which he knows or

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believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury, as defined in the Indian Penal Code, to any person, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

Penalty for certain other offences.

82. Whoever commits any of the following offences shall be punishable with imprisonment for a term which may extend to seven years, or with fine or with both:

Making false statements before registering officer.

(*a*) intentionally makes any false statement, whether on oath or not, and whether it has been recorded or not, before any officer acting in execution of this Act, in any proceeding or inquiry under this Act;

Delivering false copy or translation.

(*b*) intentionally delivers to a registering officer, in any proceeding under Section 19 or Section 21, a false copy or translation of a document, or a false copy of a map or plan;

False personation.

(*c*) falsely personates another, and in such assumed character presents any document, or makes any admission or statement, or causes any summons or commission to be issued, or does any other act in any proceeding or inquiry under this Act;

Abetment of offences under Act.

(*d*) abets within the meaning of the Indian Penal Code anything made punishable by this Act.

Registering officer may institute prosecutions.

83. A prosecution for any offence under this Act coming to the knowledge of a registering officer in his official capacity may be commenced by or with the permission of the Inspector-General, the Branch Inspector-General of Sindh, the registrar or sub-registrar in whose territories, district, or sub-district, as the case may be, the offence has been committed.

Offences punishable under this Act shall be triable by any Court or officer exercising powers not less than those of a Magistrate of the second class:

Provided that, in imposing penalties under this Act, no such Court or officer shall exceed the limits of jurisdiction prescribed by the law for the time being in force as to such Court or officer.

All fines imposed under this Act may be recovered, if for offences committed outside the limits of the presidency towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the police of such towns for the time being in force.

NOTE.—As amended by Act XII of 1879.

Registering officers to be deemed public servants.

84. Every registering officer appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Every person shall be legally bound to furnish information to such registering officer when required by him to do so. And in Section 228 of the same Code, the words "judicial proceeding" shall include any proceeding under this Act.

A registrar shall, but a sub-registrar shall not, as such, be deemed a Court within the meaning of Sections 435 and 436 of the Code of Criminal Procedure.

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PART XV.—MISCELLANEOUS.

Destruction of unclaimed documents.

85. Documents (other than wills) remaining unclaimed in any registration office for a period exceeding two years, may be destroyed.

Registering officer not liable for thing *bonâ fide* done or refused in his official capacity.

86. No registering officer shall be liable to any suit, claim, or demand by reason of anything in good faith done or refused in his official capacity.

Nothing so done invalidated by defect in appointment or procedure.

87. Nothing done in good faith pursuant to this Act, or any Act hereby repealed, by any registering officer, shall be deemed invalid merely by reason of any defect in his appointment or procedure.

Registration of documents executed by Government officers or certain public functionaries.

88. Notwithstanding anything herein contained, it shall not be necessary for any officer of Government, or for the Administrator-General of Bengal, Madras, or Bombay, or for any Official Trustee, or Official Assignee, or for the Sheriff, Receiver, or Registrar of a High Court, to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity, or to sign as provided in Section 58.

But when any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he think fit, refer to any Secretary to Government or to such officer of Government, Administrator-General, Official Trustee, Official Assignee, Sheriff, Receiver or Registrar, as the case may be, for information respecting the same, and, on being satisfied of the execution thereof, shall register the instrument.

Certificates under Land Improvement Loans Act, 1883.

89. Every officer granting a loan under the Land Improvement Loans Act, 1883, shall send a copy of his order to the registering officer within the local limits of whose jurisdiction the whole or any part of the land to be improved, or of the land to be granted as collateral security, is situate, and such registering officer shall file the copy in his Book No. 1.

Every Court granting a certificate under Section 316 of the Code of Civil Procedure shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1.

Every officer granting a loan under the Agriculturists' Loans Act, 1884, shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan, a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1.

NOTE.—The above section has been amended by Act XII of 1879, Act XIX of 1883, Section 12, and Act VII of 1886, Section 3.

*Exemptions from Act.*

Exemption of certain documents executed by or in favor of Government.

90. Nothing contained in this Act, or in Act No. VIII of 1871, or in any Act thereby repealed, shall be deemed to require, or to have at any time required, the registration of any of the following documents or maps :—

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(*a*). Documents issued, received, or attested by any officer engaged in making a settlement or revision of settlement of land-revenue, and which form part of the records of such settlement.

(*b*). Documents and maps issued, received, or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, and which form part of the record of such survey.

(*c*). Documents which, under any law for the time being in force, are filed periodically in any revenue office by patwáris or other officers charged with the preparation of village-records.

(*d*). Sanads, inám title-deeds and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land.

(*e*). Notices given under Section 74, or Section 76, of the Bombay Land-revenue Code, 1879, of relinquishment of occupancy by occupants, or of alienated land by holders of such land.

But all such documents and maps shall, for the purposes of Sections 48 and 49, be deemed to have been and to be registered in accordance with the provisions of this Act.

NOTE.—Clause (*e*) has been added by Act VII of 1886.

Inspection and copies of such documents.

**19.** Subject to such rules and the previous payment of such fees as the Local Government from time to time prescribes in this behalf, all documents and maps mentioned in Section 90, clauses (*a*), (*b*), (*c*) and (*e*), and all registers of the documents mentioned in clause (*d*), shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

NOTE.—For rules for inspection of revenue records and granting of copies under Section 88 of Act VIII of 1871 (which corresponds with this section), see Financial Commissioner's Book Circular No. 23 of 1871, amended by Circular No. 36 of 1882.

Burmese registration rules confirmed.

**92.** All rules relating to registration heretofore enforced in British Burma shall be deemed to have had the force of law, and no suit or other proceeding shall be maintained against any officer or other person in respect of anything done under any of the said rules.

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NOTES.—(*a*). In exercise of the powers conferred upon the Local Government by Section 5 of Act III of 1877 (*The Indian Registration Act*), and in supersession of all previous orders on the subject, the Hon'ble the Lieutenant-Governor is pleased to form districts and sub-districts for the purposes of the said Act in the manner following (that is to say) :—

(1).—The several districts of the Punjab and it Dependencies as constituted for purposes of Revenue and Administration in Punjab Government Notification. Home Department, No. 697 S., dated 15th October 1884, shall be deemed to be districts also for the purposes of registration.

(2).—The said districts shall be sub-divided into sub-districts, having limits as set forth in the annexed list.

2. This Notification shall take effect form the 1st January 1885.

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## LIST.

| Districts. | Sub-districts. | Limits of sub-districts. |
|---|---|---|
| Delhi ... ... | Delhi ... ... | The sub-collectorate of Delhi. |
| | Sonepat ... | Ditto of Sonepat. |
| | Ballabgarh ... | Ditto of Ballabgarh. |
| Gurgaon ... ... | Gurgaon ... | The sub-collectorate of Gurgaon. |
| | Rewari ... ... | Ditto of Rewari. |
| | Firozpur ... | Ditto of Firozpur. |
| | Nuh ... ... | Ditto of Nuh. |
| | Palwal ... ... | Ditto of Palwal. |
| Karnal ... ... | Karnal ... ... | The sub-collectorate of Karnal, excluding the portion comprised in the Kunjpura sub-district. |
| | * *Kunjpura* ... | The jagir villages of the Nawab of Kunjpura, situated in the Karnal sub-collectorate. |
| | Panipat... ... | The sub-collectorate of Panipat. |
| | Kaithal... ... | The sub-collectorate of Kaithal, excluding the portion comprised in the Arnauli sub-district. |
| | † *Arnauli* ... | The jagir villages of the Bhai of Arnauli, situated in the Kaithal sub-collectorate, and the villages of the Gohila Thana in which he exercises judicial powers. |
| Hissar ... ... | Hissar ... ... | The sub-collectorate of Hissar. |
| | Hansi ... ... | Ditto of Hansi. |
| | Bhiwani ... | Ditto of Bhiwani. |
| | Barwala ... | Ditto of Barwala. |
| | Fatahabad ... | Ditto of Fatahabad. |
| | Sirsa ... ... | Ditto of Sirsa. |
| Rohtak ... ... | Rohtak... ... | The sub-collectorate of Rohtak. |
| | Jhajjar... ... | Ditto of Jhajjar. |
| | Sampla... ... | Ditto of Sampla. |
| | Gohana... ... | Ditto of Gohana. |
| Umballa ... ... | Umballa ... | The sub-collectorate of Umballa excluding the Military cantonment. |
| | Umballa Cantonment ... ... | The Military cantonment of Umballa. |
| | Rupar ... ... | The sub-collectorate of Rupar. |
| | Jagadhri ... | The sub-collectorate of Jagadhri, excluding the villages situated in the Buriya sub-district. |
| | Kharar ... ... | The sub-collectorate of Kharar, excluding the villages situated in the Sohana sub-district. |

* The sub-district of Kunjpura abolished and the area thereof annexed to the existing sub-district of Karnal. (*No.* 22, *dated* 28*th April* 1886—*Punjab Gazette of* 29*th idem, Part I, page* 250).

† Sub-district of Arnauli abolished and area annexed to Kaithal. (*No.* 31, *dated* 13*th July* 1888—*Punjab Gazette of* 19*th idem, Part I, page* 492).

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LIST—continued.

| Districts. | Sub-districts. | Limits of sub-districts. |
|---|---|---|
| Umballa—(*cld*).... | Naraingarh ... | The sub-collectorate of Naraingarh. |
| | Pipli ... ... | Ditto of Pipli, excluding the villages situated in the Buriya sub-district. |
| | Sohana... ... | The jagir villages of the Sardar of Sohana, situated in Kharar sub-district. |
| | Buriya ... ... | The villages of the Jagadhri and Pipli sub-collectorates in which the Sardar of Buriya exercises judicial powers. |
| Simla ... ... | Simla ... ... | The sub-collectorates of Simla and Barauli, including the Jutogh cantonment, but excluding the tracts forming the sub-district of Kasauli |
| | Kasauli... ... | The Military cantonments of Kasauli, Dagshai, Solon and Subathu, the Sanawar (Lawrence Asylum) estate, and the town of Kalka. |
| | Kot Khai ... | The sub-collectorates of Kot Khai and Kotgarh. |
| Ludhiana ... | Ludhiana ... | The sub-collectorate of Ludhiana, excluding the portions comprised in the sub-districts of Ramgarh and Malaudh. |
| | Ramgarh ... | The jagir villages of Sardar Uttam Singh of Ramgarh, in the Ludhiana sub-collectorate. |
| | Malaudh ... | The jagir villages of Sardar Badan Singh of Malaudh, in the Ludhiana sub-collectorate. |
| | Samrala ... | The sub-collectorate of Samrala. |
| | Jagraon ... | Ditto Jagraon. |
| Ferozepore ... | Ferozepore ... | The sub-collectorate of Ferozepore, excluding the Military Cantonment and such villages as are situated in the Mamdot and Sultan Khanwala sub-districts. |
| | Ferozepore Cantonment ... | The Military Cantonment of Ferozepore. |
| | Zira ... ... | The sub-collectorate of Zira. |
| | Muktsar ... | Ditto Muktsar, excluding such villages as are situated in the Mamdot sub-district. |
| | Moga ... ... | The sub-collectorate of Moga excluding the portions comprising Butar and Baghaparana sub-districts. |
| | † *Butar* ... | The following villages in the Moga sub-collectorate:— |
| | | Butar. / Daodhar. / Maliana. / Lopan. / Badhni Kalan. / Badhni Khurd. / Rania. / Burj Dunna. / Gholia Khurd. / Gholia Kalan. / Phulwala. / Samadh Bhai. / Manoki. / Raonta. / Didariwala. / Bariwala. / Khota. / Bir Ranka. / Ranke. / Bir Sirkar. / Minian. / Kussa. / Rama. / Patti Diwana. / Machiki. / Himmatpura. / Bhagike. / Saidoke / Mehdeoke, / Ghaziana. / Burj Hamira. / Dina. / Kishangarh. / Khai. / Patto Hira Singh / Patto Didar Singh / Ramuwala Harchoka. / Patto Jowahir Singh. / Ransi Kalan. / Ransi Khurd. / Maddoke. / Bonda. / Dhulkot Charat Singh. / Dhulkot Kalan. / Dhulkot Sani. / Dala. / Ramuwala Kalan. / Nangal. / Lohara. / Takhtupura. / Bilaspur. / Dhulkot. / Nehal Singhwala. / Tikhanwadh. / Ramuwala Nawa. |
| | † *Baghaparana* ... | The villages of the Moga sub-collectorate in which Sodhi Rajindar Singh exercises judicial powers. |

† Abolished. Areas annexed to sub-district of Moga. (*No.* 18, *dated* 13*th April* 1888, *Punjab Gazette of* 19*th idem, Part I, page* 388).

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LIST—continued.

| Districts. | Sub-districts. | Limits of sub-districts. |
|---|---|---|
| Ferozepore—(*cld*). | * *Sultan Khanwala* | The villages of the Ferozepore sub-collectorate in which Sodhi Indar Singh exercises judicial powers. |
| | * *Mamdot* ... | The villages situated in the Ferozepore and Muktsar sub-collectorates, comprising the estate of the Nawab of Mamdot. |
| | Fazilka ... | The sub-collectorate of Fazilka. |
| Jullundur ... | Jullundur ... | The sub-collectorate of Jullundur, excluding the Military Cantonment and the Thana of Adampur. |
| | Jullundur Cantonment. | The Military Cantonment of Jullundur. |
| | Alawalpur ... | The Thana of Adampur. |
| | Phillour ... | The sub-collectorate of Phillour. |
| | Nawashahr ... | Ditto Nawashahr. |
| | Nakodar ... | Ditto Nakodar. |
| Hoshiarpur ... | Hoshiarpur ... | The sub-collectorate of Hoshiarpur. |
| | Dasuya ... | Ditto Dasuya. |
| | Garhshankar ... | Ditto Garhshankar. |
| | Una ... | Ditto Una, excluding the Thanas of Anandpur and Nurpur. |
| | Anandpur ... | The Thanas of Anandpur and Nurpur. |
| † Kangra ... | Dharmsala ... | The sub-collectorate of Kangra. |
| | Palampur ... | Ditto Palampur. |
| | Dera ... | Ditto Dera, excluding the taluka of Changar Balihar. |
| | Jawálamukhi ... | The taluka of Changar Balihar, in the Dera sub-collectorate. |
| | Hamirpur ... | The sub-collectorate of Hamirpur, excluding the portions comprising the sub-districts of Kutlehr, Nadaun, and Lambagraon. |
| | Kutlehr ... | The taluka of Kutlehr in the Hamirpur sub-collectorate. |
| | Nadaun ... | The jagir villages of Raja of Nadaun in the Hamirpur sub-collectorate. |
| | Lambagraon ... | The villages comprising the Lambagraon jagir in the Hamirpur and Palumpur sub-collectorates. |
| | Nurpur ... | The sub-collectorate of Nurpur. |
| | Kulu ... | The sub-collectorate of Kulu, excluding the portions comprising the sub-districts of Kelang, Jagatsukh and Plach. |
| | Kelang ... | The taluka of Lahaul in the Kulu sub-collectorate. |
| | Jagatsukh | The Kothis of Jagatsukh, Bursai, Manali and Baragarh in the Kulu sub-collectorate. |
| | Plach ... | The parganah of Plach in the Kulu sub-collectorate. |
| Amritsar ... | Amritsar ... | The sub-collectorate of Amritsar. |
| | Ajnala ... | The sub-collectorate of Ajnala, excluding villages situated in the Atari sub-district. |
| | Tarn Taran ... | The sub-collectorate of Tarn Taran, excluding ditto. |
| | †† *Atari* ... | The following towns and villages in the sub-collectorates of Tarn Taran and Ajnala :— |

*In the Tarn Taran sub-collectorate.*

| | | |
|---|---|---|
| Atari. | Lohorimal. | Bhagna Khurd. |
| Dhanoa Kalan. | Achinkot. | Kullawala. |
| Pulkanjari. | Bagrian. | Ghairi. |

* Abolished Areas annexed to sub-district of Ferozepur. (*No.* 18, *dated* 13*th April* 1888, *Punjab Gazette of* 19*th idem, Part I, page* 388).

† See No. 8, dated 13th February 1888, *Punjab Gazette* of 16th idem, Part I, page 210, No. 12, dated 5th March 1888, *Punjab Gazette* of same date, Part I, page 330, and No. 16, dated 11th April 1888, *Punjab Gazette*, of 12th idem, Part I, page 379.

†† Abolished. Area annexed to the sub-districts of Tarn Taran and Ajnala respectively. (*No.* 44, *dated* 12*th September* 1888, *Punjab Gazette of* 13*th idem, Part I, page* 644).

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LIST—continued.

| Districts. | Sub-districts. | Limits of sub-districts. | | |
|---|---|---|---|---|
| Amritsar—(*cld*)... | *Atari*—(cld) ... | Dhanoa Khurd. | Hoshiarnagar. | Hair. |
| | | Ratan Kalan. | Mahawa. | Mulowal. |
| | | Ratan Khurd. | Phagna Kalan. | Nathupur. |
| | | Mode. | Naushahra Dhala. | Chinia Mahmudnagar. |
| | | Dande. | Gande Vind Chiina. | Ladhewala. |
| | | Roranwala. | Sukarchak. | Jatol. |
| | | Ranyeke. | Rakh Raja Teja Singh. | Gulluwala. |
| | | Naista. | Naushera Chak. | Kalse. |
| | | Kanka. | Chabba. | Bhusa. |
| | | Pandyar. | Dudi. | Burj. |
| | | Dhole Vind. | Kot Sohian. | Raja Tal. |
| | | Janjarpur. | Gadri Bhagiari. | Bheni. |
| | | Garenda. | Sohl Thathi. | Daoke. |
| | | Karenda. | Thathi Sohl. | Pehropal. |
| | | Rakh Sarai Amanat Khan. | Bachar Kalan. | Kasil. |
| | | Sarai Amanat Khan. | Malian. | Basarki. |
| | | Bura Katri. | Mahi Mani. | Dhand. |
| | | Laihan. | Ganga Bhua. | Chak. |
| | | Chakal. | Mianpur. | Khairi. |
| | | Bachar Khurd. | | |
| | | *In the Ajnala sub-collectorate.* | | |
| | | Chak Ala Bakhsh. | Joiki. | Behrwal. |
| | | Pindari | Chaliki. | Padri. |
| | | Bhariwal. | Kimaski. | Nurpur. |
| | | Udar. | Shahura. | Chandan. |
| | | Rakh. | Dalliki. | Kakriwal. |
| | | Bachi Vind. | Vaniki. | Kot Aol Khan. |
| | | Dalla. | Chak Vinda Khurd. | |
| Gurdaspur ... | Gurdaspur ... | The sub-collectorate of Gurdaspur. | | |
| | Pathankot ... | Ditto Pathankot. | | |
| | Shakargarh ... | Ditto Shakargarh. | | |
| | Batala ... | The sub-collectorate of Batala, excluding the villages comprising the Dera Nanak sub-district. | | |
| | * *Dera Nanak* ... | The following towns and villages in the Batala sub-collectorate:— | | |
| | | Fatahgarh. | Bholiki. | Khudai. |
| | | Thatta. | Alipur. | Khanna Chaunnara. |
| | | Khokar. | Rupawali. | Singpur. |
| | | Sodhi Nangal. | Malukwali. | Shampur. |
| | | Chittorigarh. | Shekowali. | Mahta. |
| | | Shamsherpur. | Khodai. | Dharmaliad. |
| | | Dhandai. | Talwandi Raman. | Gurchak. |
| | | Hodaiwal. | Khatiala. | Dala. |
| | | Badwal Khurd. | Niko Sarai. | Talwamdi Bhandra. |
| | | Hakim Beg. | Shahpur Jajan. | Panwan. |
| | | Badwal Kalan. | Udawali Khurd. | Mansur. |
| | | Sharakot. | Udawali Kalan. | Laluwal. |

* The sub-district of Dera Nanak abolished and the area added to the Batala sub-district. (*No. 7, dated 10th February* 1885, *Punjab Gazette of 12th idem, Part* I, *page*. 81).

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LIST—continued.

| Districts. | Sub-districts. | Limits of sub-districts. | | |
|---|---|---|---|---|
| Gurdaspur—(cld.) | *Dera Nanak—(cld.)* | Gharkian. | Tarowali. | Rasulpur. |
| | | Loharanwali. | Padhai. | Ghanea-ki-Bhet. |
| | | Samrai. | Malukwala. | Ganian. |
| | | Tirpala. | Kot Khazani. | Paranawala. |
| | | Kot Maulvi. | Chandu Suja. | Goladhola. |
| | | Pabbarali. | Gilanwala. | Thetarki. |
| | | Pirancha. | Tukterwali. | Bal. |
| | | Kotli Viran. | Kalai Afghana. | Pakhoki. |
| | | Khusar Tali. | Dalachak. | Viroki. |
| | | Malliwali. | Chitta. | Palai Nangal. |
| | | Alawalwali. | Sarai. | Dera Nanak. |
| | | Vila Tega. | Dhianpur. | Kharawali. |
| | | Jhanjnan Kalan. | Basantkot. | Koteli Diaram. |
| | | Jhanjnan Khurd. | Kheri. | Sadhawali. |
| | | Dadu Jahad. | Dhawan. | Chandu Nangal. |
| | | Salai Nangal. | Dhariwali. | Jorian Khurd. |
| | | Dogar. | Nurpur. | Phangtana Luban. |
| | | Owan. | Raowal. | Phangtana Robarwali. |
| | | Teja Kalan. | Ghazi Nangal. | Mahthai. |
| | | Teja Khurd. | Ratta. | Ransiki. |
| | | Mangianwali. | Abadal. | Hardowal. |
| | | Chicharala. | Jorian Kalan. | Shahpur Goraha. |
| | | Muridki. | Mahal Nangal. | Mariransiki. |
| | | Rajiki. | Rattar Chattar. | Machrala. |
| | | Chakmaman. | Maghian. | Ugwan. |
| | | Panian. | Mulowali. | Kadian. |
| | | Bum. | Dharmkot. | Lalwandi Gowha. |
| | | Moluwali. | Shahzada. | Chori. |
| | | Rai Mul. | Maghar. | Marar. |
| | | Chackanwali. | Nawa Pind Pirkawala. | Ghogha. |
| | | Ghumar. | Koh Ahmad Khan | Ralhali Kalan. |
| | | Khallalpur | Gujarpur. | Ralhali Khurd. |
| | | Samrai. | Kallar. | Bharatwal. |
| | | Moan. | Durat. | Sundal. |
| | | Tapala. | Dulurji. | Sarchar. |
| | | Bahiolpur. | Kadian. | Kalluwal |
| | | Shakri. | Jangla. | Khirai. |
| | | Kalanwali. | Nanachak. | Paruwal. |
| | | Khushalpur. | Bishanwal. | Sanjarwal. |
| | | Harali Kalan. | Nasaki. | Vertilai Khadian. |
| | | Harali Khurd. | Talwandi Bahrit. | Kotla Shaplan. |
| | | Rampur. | Koteli Baman. | Ullawala Jattan. |
| | | Kohta. | Aliwal Banna. | Ghanai-ki-Bangar. |
| | | Kastiwal. | Dahanwali. | Mandadwal. |
| | | Saidpur. | Mallowal. | Kila Desa Singh. |
| | | Kot Majlis | Khokar. | Pallarwali. |
| | | Kallai Nangal | | Sikhwan. |
| Lahore ... | Lahore ... | The sub-collectorate of Lahore, excluding the Meean Meer Cantonment. | | |
| | Meean Meer ... | The Military Cantonment of Meean Meer. | | |
| | Kasur ... | The sub-collectorate of Kasur. | | |
| | Chunian ... | Ditto ditto Chunian. | | |
| | Sharakpur ... | Ditto ditto Sharakpur. | | |

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LIST—continued.

| Districts. | Sub-districts. | Limits of sub-districts. |
|---|---|---|
| Mooltan ... | Mooltan ... | The sub-collectorate of Mooltan, excluding the Military Cantonment. |
| | Mooltan Cantonment ... | The Military cantonment of Mooltan. |
| | Shujabad ... | The sub-collectorate of Shujabad. |
| | Lodhran ... | Ditto Lodhran. |
| | Mailsi ... | Ditto Mailsi. |
| | Sarai Sidhu ... | Ditto Sarai Sidhu. |
| Jhang ... | Jhang ... | The sub-collectorate of Jhang. |
| | Chiniot ... | Ditto Chiniot. |
| | Shorkot ... | Ditto Shorkot. |
| Montgomery ... | Montgomery ... | The sub-collectorate of Montgomery. |
| | Dipalpur ... | Ditto Dipalpur. |
| | Gugera ... | Ditto Gugera. |
| | Pakpattan ... | Ditto Pakpattan. |
| Rawalpindi ... | Rawalpindi ... | The sub-collectorate of Rawalpindi, excluding the Military Cantonment. |
| | Rawalpindi Cantonment. | The Military cantonment of Rawalpindi. |
| | Attock ... | The sub-collectorate of Attock. |
| | Murree ... | Ditto Murree. |
| | Kahuta ... | Ditto Kahuta. |
| | Pindigheb ... | Ditto Pindigheb. |
| | Fatahjang ... | Ditto Fatahjang. |
| | Gujar Khan ... | Ditto Gujar Khan. |
| Jhelum ... ... | Jhelum ... | The sub-collectorate of Jhelum. |
| | Pind Dadan Khan | Ditto Pind Dadan Khan. |
| | Chakwal ... | Ditto Chakwal. |
| | Talagang ... | Ditto Talagang |
| Gujrat ... | Gujrat ... | The sub-collectorate of Gujrat. |
| | Kharian ... | Ditto Kharian. |
| | Phalia ... | Ditto Phalia. |
| Shahpur ... | Shahpur ... | The sub-collectorate of Shahpur. |
| | Bhera ... | Ditto Bhera. |
| | Khushab ... | Ditio Khnshab. |
| Gujranwala ... | Gujranwala ... | The sub-collectorate of Gujranwala, excluding villages situated within the Batala and Shekhupura sub-districts. |
| | Wazirabad ... | The sub-collectorate of Wazirabad, excluding villages situated within the Batala sub-district. |
| | Hafizabad ... | The sub-collectorate of Hafizabad, excluding villages situated within the Shekhupura sub-district. |

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LIST—continued.

| Districts. | Sub-districts. | Limits of sub-districts. |
|---|---|---|
| Gujranwala—(*cld.*) | * *Batala* ... | The following villages in the sub-collectorates of Gujranwala and Wazirabad :— |

*In the Gujranwala sub-collectorate.*

| | | |
|---|---|---|
| Udhuwali. | Chahil Kohna. | Zafarabad. |
| Aulakh. | Chak Umar. | Fatahki. |
| Arjan. | Chak Chatta. | Kila Dan. |
| Batala. | Chak Mir Ali. | Kila Wazir Singh. |
| Bijjumal. | Chak Virkan. | Kila Chanda Singh. |
| Bal. | Chabba Sindhaura. | Kila Jaggu. |
| Bakshishpura. | Godha. | Kila Diwan Singh. |
| Bhiri Khurd. | Ladhiki. | Kila Bhahian. |
| Bhiri Kalan. | Madnipur. | Kila Majju Singh. |
| Bahlol Chak. | Madan Chak. | Kila Sujan Singh. |
| Bhiladpur. | Makiwala. | Kalowali. |
| Philoki Khurd. | Musapur. | Kot Bula. |
| Philoki Kalan. | Nurpur. | Kotli Lakha. |
| Palangpur. | Nankarian. | Kot Jiwa. |
| Pokharpur. | Jallianwala. | Kot Chand. |
| Panj Garaira. | Chiddar. | Kot Nadhan. |
| Tariwala. | Chak Jed. | Kot Kesho. |
| Bijja. | Kalikpur. | Kot Ladha. |
| Targa. | Dharmkot. | Kot Lala. |
| Thabal. | Dhidu Dugal. | Kalsian. |
| Tonganwali. | Dhillu Basha. | Khiwa Duggal. |
| Thatta Arjan. | Dhappi Mehtab Singh. | Garhi. |
| Theri Gilran. | Dhappi Bisakha Singh. | Nokhar. |
| Thatta Daswandhi. | Dera Dhundo Ram. | Nathu Suja. |
| Thatta Kutba. | Ratta Thothar | Wariwala. |
| Badoki | Ramgarh. | Higar. |
| Thatta Basan. | Sago Bhago | Hardo Deodi. |
| Jodhpur. | Saratabad. | Hamoke. |
| Jhillian. | Ducha. | Kila Didar Singh. |
| Chak Beg. | | Kamowali. |
| Chahil Nawan. | | Kot Lajja Ram. |

*In the Wazirabad sub-collectorate.*

| | | |
|---|---|---|
| Bhoma. | Kot Bangas. | Kot Shah Muhammad |
| Budhn Rajada. | Kot Jahangir. | Kot Dewal. |
| Sal. | Kot Rasul. | Nat. |
| | | Nidal pakka. |

| | | |
|---|---|---|
| | † *Shekhupura* ... | The villages in the Gujranwala and Hafizabad sub-collectorates in which Raja Harbans Singh exercises judicial powers. |

* In exercise of the powers conferred upon the Local Government by Section 5 of Act III of 1877 (*The Registration Act*), the Hon'ble the Lieutenant-Governor is pleased to abolish the sub district of Batala in the Gujranwala District, and to re-annex to the Gujranwala sub-district so much of the area of the said Batala sub-district as is situate in the Gujranwala sub-collectorate, and to the Wazirabad sub-district so much of the area of the said Batala sub-district as is situate in the Wazirabad sub-collectorate.

This notification shall take effect from 15th March 1885.

(*No.* 16, *dated 2nd March* 1885. *Punjab Gazette of 5th idem, Part I. page* 168).

† Abolished and the area added to the sub-districts of Gujranwala and Hafizabad according as the villages concerned are situated in the Gujranwala and Hafizabad tahsils. (*No.* 42, *dated 20th September* 1887, *Punjab Gazette of 22nd idem, Part I. page* 527).

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LIST—concluded.

| Districts. | Sub-districts. | Limits of sub-districts. |
|---|---|---|
| Sialkot ... | Sialkot ... | The sub-collectorate of Sialkot, excluding the Military Cantonment. |
| | Sialkot Cant. | The Military Cantonment of Sialkot. |
| | Pasrur ... | The sub-collectorate of Pasrur. |
| | Raya ... | Ditto Raya. |
| | Zafarwal ... | Ditto Zafarwal. |
| | Daska ... | The sub-collectorate of Daska, excluding the villages comprising the Vadala sub-district. |
| | Vadala ... | The villages situated in the Daska sub-collectorate in which Sardar Dyal Singh exercises judicial powers. |
| Dera Ismail Khan | Dera Ismail Khan | The sub-collectorate of Dera Ismail Khan. |
| | Bhakkar ... | Ditto Bhakkar. |
| | Leiah ... | Ditto Leiah. |
| | Kulachi ... | Ditto Kulachi. |
| | Tank ... | Ditto Tank. |
| Dera Ghazi Khan | Dera Ghazi Khan | The sub-collectorate of Dera Ghazi Khan. |
| | Rajanpur ... | Ditto Rajanpur. |
| | Sanghar ... | Ditto Sanghar. |
| | Jampur ... | Ditto Jampur. |
| Bannu ... ... | Bannu ... ... | The sub-collectorate of Bannu. |
| | Mianwali ... | Ditto Mianwali. |
| | Laki ... ... | Ditto Marwat. |
| | Isa Khel ... | Ditto Isa Khel. |
| Muzaffargarh ... | Muzaffargarh ... | The sub-collectorate of Muzaffargarh. |
| | Alipur ... ... | Ditto Alipur. |
| | Sinanwan ... | Ditto Sinanwan. |
| Peshawar ... ... | Peshawar ... | The sub-collectorate of Peshawar, excluding the Military Cantonment. |
| | Peshawar Cantonment. | The Military Cantonment of Peshawar. |
| | Mardan ... | The sub-collectorate of Yusafzai. |
| | Naushahra ... | Ditto Khalsa Khatak. |
| | Hashtnagar ... | Ditto Hashtnagar. |
| | Utman Bolak ... | Ditto Utman Bolak. |
| | Daudzai ... | Ditto Doaba Daudzai. |
| Hazara ... ... | Abbott-abad ... | The district of Hazara, excluding the sub-collectorates of Haripur and Mansahra. |
| | Haripur ... | The sub-collectorate of Haripur. |
| | Mansahra ... | Ditto Mansahra. |
| Kohat ... ... | Kohat ... | The district of Kohat, excluding the sub-collectorate of Hangu. |
| | Hangu ... | The sub-collectorate of Hangu. |

(*Notification No. 129, dated 24th December* 1884, *Punjab Gazette of 25th idem, Part I, page* 1232).

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(b).—In exercise of the powers conferred upon the Local Government by Sections 6 and 7 of Act III of 1877 (*the Indian Registration Act*), and in supersession of all previous orders on the subject, the Hon'ble the Lieutenant-Governor is pleased—

(1) to appoint all officers in administrati e charge of the districts constituted for purposes of Revenue and Administration in Punjab Government Notification No. 697 S, dated 15th October 1884, whether as officiating or as permanent Deputy Commissioners, to be *ex-officio* registrars of districts for the purposes of Registration ; also to establish their offices at the head-quarters of such districts ;

(2) to appoint the public officers and other persons mentioned in columns 4 and 5 of the annexed list to be Sub-Registrars or Joint sub-registrars (as the case may be) in the Sub-districts mentioned in column 2 thereof; also to establish the offices of such sub-registrars and Joint Sub-registrars at the places mentioned in column 3 thereof.

2. This Notification shall take effect from the 1st January 1885.

| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| | | | Sub-Registrars. | | |
| Districts. | Sub-Districts. | Situation of office. | *Ex-officio.* | Other persons. | Remarks. |
| Delhi ... | Delhi ... | Delhi | ... | Note.—All entries in this column, being merely personal appointments, have been omitted. | Joint. |
| | | | Tahsildar .. | | |
| | Sonepat | Sonepat ... | Ditto ... | | |
| | Ballabgarh ... | Ballabgarh ... | Ditto ... | | |
| Gurgaon ... | Gurgaon | Gurgaon | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | | Farrukhnagar ... | ... | ... | |
| | Rewari ... | Rewari ... | Tahsildar ... | ... | |
| | Firozpur ... | Firozpur ... | Ditto ... | ... | |
| | Nuh ... | Nuh ... | Ditto ... | ... | |
| | Palwal ... | Palwal ... | Ditto ... | ... | |
| Karnal ... | Karnal ... | Karnal | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | * *Kunjpura* ... | Kunjpura ... | ... | ... | |
| | Panipat ... | Panipat ... | Tahsildar ... | ... | |
| | Kaithal ... | Kaithal ... | Ditto ... | ... | |
| | † *Arnauli* ... | Arnauli ... | ... | ... | |

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| | | | | | |
|---|---|---|---|---|---|
| Hissar ... | Hissar ... | Hissar | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Hansi ... | Hansi ... | Ditto ... | ... | |
| | Bhiwani ... | Bhiwáni ... | Ditto ... | ... | |
| | Barwala ... | Barwala ... | Ditto ... | ... | |
| | Fatahabad ... | Fatahabad ... | Ditto ... | ... | |
| | Sirsa ... | Sirsa ... | Ditto ... | ... | |
| Rohtak ... | Rohtak ... | Rohtak | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Jhajjar ... | Jhajjar ... | Ditto ... | ... | |
| | Sampla ... | Sampla ... | Ditto ... | ... | |
| | Gohana ... | Gohana ... | Ditto ... | ... | |
| Umballa ... | Umballa ... | Umballa | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Umballa Cantonment ... | Ditto ... | Cantonment Magistrate | ... | |
| | Rupar ... | Rupar ... | Tahsildar ... | ... | |
| | Jagadhri ... | Jagadhri ... | Ditto ... | ... | |
| | Kharar ... | Kharar ... | Ditto ... | ... | |
| | Naraingarh ... | Naraingarh ... | Ditto ... | ... | |
| | Pipli ... | Pipli ... | Ditto ... | ... | |
| | Sohana ... | Sohana ... | ... | ... | |
| | Buriya ... | Buriya ... | ... | ... | |
| Simla ... | Simla ... | Simla ... | Treasury Officer ... | ... | |
| | Kasauli ... | Kasauli ... | Assistant Commissioner | ... | |
| | Kotkhai ... | Kotgarh ... | Naib-Tahsildar ... | ... | |
| Ludhiana ... | Ludhiana ... | Ludhiana | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Ramgarh ... | Ramgarh ... | ... | ... | |
| | Malaudh ... | Malaudh ... | ... | ... | |
| | Samrala ... | Samrala ... | Tahsildar ... | ... | |
| | Jagraon ... | Jagraon ... | Ditto ... | ... | |

*Sub-district of Kunjpura abolished, and the area thereof annexed to the existing sub-district of Karnal. (*No.* 22, *dated* 28*th April* 1886, *Punjab Gazette of* 29*th idem, Part I, p.* 250).

† Abolished. Area annexed to Kaithal. (*No.* 31, *dated* 13*th July* 1888, *Punjab Gazette of* 19*th idem, Part* I, *p.* 492).

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| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| Districts. | Sub-districts. | Situation of Office. | Sub-Registrars. | | Remarks. |
| | | | *Ex-officio.* | Other persons. | |
| Ferozepore ... | Ferozepore ... | Ferozepore | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Ferozepore Cantonment | Ditto ... | Cantonment Magistrate | ... | |
| | Zira ... | Zira ... | Tahsildar ... | ... | |
| | Muktsar ... | Muktsar ... | Ditto .. | ... | |
| | Moga ... | Moga ... | Ditto ... | ... | |
| | *Butar ... | *Butar* ... | ... | ... | |
| | **Bagha parana* ... | *Bagha parana* ... | ... | ... | |
| | **Sultan Khanwala* ... | *Sultan Khanwala* ... | ... | ... | |
| | **Mamdot* ... | *Mamdot* ... | ... | ... | |
| | **Fazilka* ... | *Fazilka* ... | Tahsildar ... | ... | |
| Jullundur ... | Jullundur ... | Jullundur | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Jullundur Cantonment ... | Ditto ... | Cantonment Magistrate | ... | |
| | Alawalpur ... | Alawalpur ... | ... | ... | |
| | Phillour ... | Phillour ... | Tahsildar ... | ... | |
| | Nawashahr | Nawashahr ... | Ditto ... | ... | Joint. |
| | | Banga ... | ... | ... | |
| | Nakodar ... | Nakodar ... | Tahsildar ... | ... | |
| Hoshiarpur... | Hoshiarpur | Hoshiarpur | ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | | Hariana ... | ... | ... | |
| | Dasuya | Dasuya ... | Tahsildar ... | ... | Joint. |
| | | Mukerian ... | ... | ... | |
| | | Tanda ... | ... | ... | |
| | Garhshankar | Garhshankar ... | Tahsildar ... | ... | Joint. |
| | | Kathgarh ... | ... | ... | |
| | Una | Una ... | Tahsildar ... | ... | Joint. |
| | | ***Amb* ... | *Naib-Tahsildar* ... | ... | |
| | Anandpur ... | Anandpur ... | ... | ... | Acting. |

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| | | | | | |
|---|---|---|---|---|---|
| Kangra ... | †Dharmsala | Dharmsala ... | Treasury Officer ... | ... | Joint. |
| | | Kangra ... | Tahsildar ... | ... | |
| | | Palampur ... | Naib-Tahsildar ... | ... | |
| | Dera ... | Dera ... | Tahsildar ... | ... | |
| | Jawalamukhi ... | Jawalamukhi ... | ... | ... | |
| | †Hamirpur ... | Hamirpur ... | Tahsildar ... | ... | |
| | Kutlehr ... | Kutlehr ... | ... | ... | |
| | Nadaun ... | Nadaun ... | ... | ... | |
| | Lambagraon ... | Lambagraon ... | ... | ... | |
| | Nurpur | Nurpur ... | Tahsildar ... | ... | Joint. |
| | | Indaura ... | ... | ... | |
| | Kulu ... | Sultanpur ... | Tahsildar ... | ... | |
| | Kelang ... | Kelang ... | ... | ... | |
| | Jagat Sukh ... | Jagat Sukh ... | ... | ... | |
| | Plach ... | Plach ... | Naib-Tahsildar ... | ... | |
| Amritsar ... | Amritsar ... | Amritsar | ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Ajnala | Ajnala ... | Ditto ... | ... | |
| | Tarn Taran ... | Tarn Taran ... | Ditto ... | ... | |
| | ††*Atari* ... | Atari ... | ... | ... | |
| Gurdaspur ... | Gurdaspur ... | Gurdaspur | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Pathankot | Pathankot ... | Ditto ... | ... | Joint. |
| | | Dalhousie ... | Assistant Commissioner... | ... | |
| | Shakargarh ... | Shakargarh ... | Tahsildar ... | ... | |
| | Batala | Bala ... | Ditto ... | ... | Joint. |
| | | †††*Kishankot* ... | ... | ... | |
| | ††††*Dera Nanak* ... | *Dera Nanak* ... | ... | ... | |

* Abolished.—*Vide* No. 18, dated 13th April 1888, *Punjab Gazette* of 19th idem, Part I, p. 388.

** Cancelled. See No. 46, dated 21st October 1885, Punjab Gazette of 22nd idem, Part I p. 769.

† New sub-district of Palampur formed of certain villages excluded from Dharmsala and Hamirpur sub-districts. (*No.* 8, *dated* 13*th February* 1888, *Punjab Gazette of* 16*th idem, Part I, p.* 210.)

†† Abolished. See No. 44, dated 12th September 1888. *Punjab Gazette* of 13th idem, Part I, p. 644.

††† The registry office at Kishankot abolished. (*No.* 19, *dated* 18*th March* 1885, *Punjab Gazette of* 19*th idem, Part I, p.* 210).

†††† *Dera* Nanak abolished). *No.* 7, *dated* 10*th February* 1885, *Punjab Gazette of* 12*th idem, Part I, p.* 81).

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| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| Districts. | Sub-districts. | Situation of Office. | Sub-Registrars. Ex-officio. | Sub-Registrars. Other persons. | Remarks. |
| Lahore ... | Lahore ... | Lahore | ... | ... | Joint. |
| | Meean Meer ... | Meean Meer ... | Tahsildar ... | ... | |
| | Kasur ... | Kasur ... | Cantonment Magistrate | ... | |
| | Chunian ... | Chunian ... | Tahsildar ... | ... | |
| | Sharakpur ... | Sharakpur ... | Ditto ... | ... | |
| | | | Ditto ... | ... | |
| Mooltan ... | Mooltan ... | Mooltan | ... | ... | Joint. |
| | Mooltan Cantonment ... | Ditto ... | Tahsildar ... | ... | |
| | Shujabad ... | Shujabad ... | Cantonment Magistrate | ... | |
| | Lodhran ... | Lodhran ... | Tahsildar ... | ... | |
| | Mailsi ... | Mailsi ... | Ditto ... | ... | |
| | Sarai Sidhu ... | Sarai Sidhu ... | Ditto ... | ... | |
| | | | Ditto ... | ... | |
| Jhang ... | Jhang ... | Jhang | Treasury Officer ... | ... | Joint. |
| | Chiniot ... | Chiniot ... | Tahsildar ... | .. | |
| | * Shorkot ... | Shorkot ... | Ditto ... | ... | |
| | | | Ditto ... | ... | |
| Montgomery... | Montgomery ... | Montgomery | Treasury Officer ... | ... | Joint. |
| | Dipalpur ... | Dipalpur ... | Tahsildar ... | ... | |
| | Gugera ... | Gugera ... | Ditto ... | ... | |
| | Pakpattam ... | Pakpattan .. | Ditto ... | ... | |
| | | | Ditto ... | ... | |
| Rawalpindi ... | Rawalpindi ... | Rawalpindi | ... | ... | Joint. |
| | Rawalpindi Cantonment | Ditto ... | Tahsildar ... | ... | |
| | Attock ... | Attock ... | Cantonment Magistrate | ... | |
| | Murree ... | Murree | Tahsildár ... | ... | |
| | Kahuta ... | Kahuta ... | Assistant Commissioner | ... | Joint. |
| | Pindigheb ... | Pindigheb ... | Tahsildar ... | ... | |
| | Fatahjang ... | Fatahjang ... | Ditto ... | ... | |
| | Gujar Khan ... | Gujar Khan ... | Ditto ... | ... | |
| | | | Ditto ... | ... | |

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| | | | | | |
|---|---|---|---|---|---|
| Jhelum ... | Jhelum ... | Jhelum | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Pind Dadan Khan ... | Pind Dadan Khan ... | Ditto ... | ... | |
| | Chakwal ... | Chakwal ... | Ditto ... | ... | |
| | Talagang ... | Talagang ... | Ditto ... | ... | |
| Gujrat ... | Gujrat ... | Gujrat | Treasury Officer .. | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Kharian ... | Kharian ... | Ditto ... | ... | |
| | Phalia ... | Phalia ... | Ditto ... | ... | |
| Shahpur ... | Shahpur ... | Shahpur | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Bhera ... | Bhera ... | Ditto ... | ... | |
| | Khushab .. | Khushab ... | Ditto ... | ... | |
| Gujranwala ... | Gujranwala ... | Gujranwala | ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Wazirabad ... | Wazirabad ... | Ditto ... | ... | |
| | Hafizabad ... | Hafizabad ... | Ditto ... | ... | |
| | † *Batala* ... | *Batala* ... | ... | ... | |
| | ‡ *Shekhupura* ... | *Shekhupura* ... | ... | ... | |
| Sialkot ... | Sialkot ... | Sialkot | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Sialkot Cantonment ... | Ditto ... | Cantonment Magistrate | ... | |
| | Pasrur ... | Pasrur ... | Tahsildar ... | ... | |
| | Raya | Raya ... | Ditto ... | ... | Joint. |
| | | Narowal ... | ... | ... | |
| | Zafarwal ... | Zafarwal ... | Tahsildar ... | ... | |
| | Daska ... | Daska ... | Ditto ... | ... | |
| | Vadala ... | Vadala ... | ... | ... | |

* Under the provisions of Sections 6 and 7 of Act III of 1877 (The Indian Registration Act), the Hon'ble the Lieutenant-Governor is pleased to establish an office of Joint sub-registrar at Garh Maharaja, in the Shorkot sub-district of the Jhang District, * * * * This Notification will take effect from 11th April next. (*No.* 13, *dated* 5*th March* 1886, *Punjab Gazette of* 11*th idem, Part I, page* 109).

† Sub-district of Batala abolished. (*No* 16, *dated* 2*nd March* 1885, *Punjab Gazette. of* 5*th idem, Part I, p.* 168).

‡ Shekhupura abolished. (*No.* 42, *dated* 20*th September* 1887, *Punjab Gazette of* 22*nd idem, Part I, p.* 527).

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| 1 | 2 | 3 | 4 | 5 | 6 |
|---|---|---|---|---|---|
| Districts. | Sub-districts. | Situation of Office. | Sub-Registrars. Ex-officio. | Sub-Registrars. Other persons. | Remarks. |
| Dera Ismail Khan. | Dera Ismail Khan ... | Dera Ismail Khan | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Bhakkar ... | Bhakkar ... | Ditto ... | ... | |
| | Leiah ... | Leiah ... | Ditto ... | ... | |
| | Kulachi ... | Kulachi ... | Ditto ... | ... | |
| | Tank ... | Tank ... | Ditto ... | ... | |
| Dera Ghazi Khan. | Dera Ghazi Khan ... | Dera Ghazi Khan | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Rajanpur ... | Rajanpur ... | Ditto ... | ... | |
| | Sanghar ... | Sanghar ... | Ditto ... | ... | |
| | Jampur ... | Jampur ... | Ditto ... | ... | |
| Bannu ... | Bannu ... | Bannu | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Mianwali ... | Mianwali ... | Ditto ... | ... | |
| | Laki ... | Laki ... | Ditto ... | ... | |
| | Isa Khel ... | Isa Khel ... | Ditto ... | ... | |
| Muzaffargarh... | Muzaffargarh ... | Muzaffargarh | Treasury Officer ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Alipur ... | Alipur ... | Ditto ... | ... | |
| | Sinawan ... | Sinawan ... | Ditto ... | ... | |
| Peshawar ... | Peshawar ... | Peshawar | ... | ... | Joint. |
| | | | Tahsildar ... | ... | |
| | Peshawar Cantonment... | Ditto ... | Cantonment Magistrate | ... | |
| | Mardan ... | Mardan ... | Tahsildar ... | ... | |
| | Naushahra ... | Naushahra ... | Ditto ... | ... | |
| | Hashtnagar ... | Hashtnagar ... | Ditto ... | ... | |
| | Utman Bolak ... | Utman Bolak ... | Ditto ... | ... | |
| | Daudzai ... | Daudzai ... | Ditto ... | ... | |

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| | | | | | |
|---|---|---|---|---|---|
| Hazara ... | Abbott-abad ... | Abbott-abad | Treasury Officer ...<br>Tahsildar ... | ...<br>... | Joint. |
| | Haripur ... | Haripur ... | Ditto ... | ... | |
| | Mansahra ... | Mansahra ... | Ditto ... | ... | |
| Kohat ... | Kohat ... | Kohat | Treasury Officer ...<br>Tahsildar ... | ...<br>... | Joint. |
| | Hangu ... | Hangu ... | Ditto ... | ... | |

(*Notification No.* 130, *dated* 24*th December* 1884, *Punjab Gazette of* 25*th idem, Part I, p.* 1240).

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(e).—The following rules, made by the Inspector-General of Registration, Punjab, under Section 69 of Act III of 1877, *The Indian Registration Act*, have been approved by the Hon'ble the Lieutenant-Governor and are published for general information.

2. These rules shall take effect from 1st April 1881, and from that date the rules published with Punjab Government Notification No. 2239, dated 22nd May 1877, shall cease to have effect.

RULES MADE UNDER SECTION 69 OF THE INDIAN REGISTRATION ACT, 1877, FOR THE PUNJAB AND ITS DEPENDENCIES.

CUSTODY AND DESTRUCTION OF RECORDS.

1. The offices of all registering officers have been supplied with one or more strong, tin-lined boxes with Chubb's locks; in these boxes the register books and all papers and documents connected therewith shall be kept; and no money or valuables of any kind shall be deposited therein. The box shall be placed in the room where the registering officer transacts his public business, and shall be opened and closed by that officer himself, or in his presence. When locked, the key shall be retained in his own possession. The duplicate keys of these locks supplied to sub-registrars shall remain in the custody of the registrar of the district, who will label each with the name of the sub-district to which it belongs, and deposit it in some safe place.

2. Every registering officer shall be responsible for the preservation and safe custody of all registration records, including those of previous years, which have accumulated in his office or have been transferred to it. To prevent injury occurring to the older records by damp, white-ants, &c., the boxes should be thoroughly emptied out, and their contents examined, once a week. Should any injury happen to any of the records, whether by white-ants, fire, flood, or otherwise, an immediate report of the circumstance, and of the extent of damage done shall be made to the Inspector-General by the registrar of the district, who shall record at the same time his opinion as to whether any one and who is to blame, and as to the measures to be taken to repair the injury so far as may be possible.

3. The registrar of every district has been supplied with a fire-proof safe. In this safe shall be kept Wills in sealed covers, and Authorities to Adopt which may have been deposited under the provisions of Act XX of 1866, and Authorities to Adopt executed before the 1st January 1872 which may have been deposited under Section 2 of Act VIII of 1871; also Wills in sealed covers which have been deposited or may be presented for deposit under Section 43, and Wills wich have been or may be opened under Section 45 of Act VIII of 1871 or Act III of 1877. It shall not be used for any other purpose whatever. The key of the safe shall remain in the personal custody of the registrar, who alone shall open and close it; the duplicate key shall be deposited in some secure place. The safe shall be placed where it cannot be affected by damp: and it shall be opened at least once a month with the view of ascertaining that its contents (if any) are correct and in good condition, and that the lock is in order; and the registrar shall report monthly to the Inspector-General the result of this examination or, if no such examination from unavoidable cause has been made during the month, the reason for it.

4. Inspections of register books and indexes allowed to applicants under Section 57 of Act III of 1877 shall be made in the presence of the registering officer, and without writing materials.

5. If the production of a register book or of any document in the custody of a registering officer be required by any Court, it shall be forwarded under charge of a member of the registration establishment, and application shall be made to the Court for payment of his expenses.

6. At the close of each official year, every sub-registrar shall report to the registrar of his district, in such form as may be prescribed from time to time by the Inspector-General, the different kinds of documents and records, and the periods to which they belong, which he considers may be destroyed; and the registrar, after examining all the reports of his district and recording his opinion thereon shall add a report of the same description for his own office, and forward the whole for the orders of the Inspector-General, whom they should reach by the 1st of May. Ordinarily no document or record less than three years old should be proposed for destruction; and no document or record shall be destroyed without the express sanction of the Inspector-General. Wills must never be destroyed.

7. When a registered document is destroyed under Section 85, a note to that effect shall be made in the column for remarks opposite the copy in the book in which it was registered. When a document, the registration of which has been refused, is destroyed under the same section, a similar note shall be made in the column of remarks opposite the record of refusal in Book No. 2.

LANGUAGES.

8. With reference to Section 19 of the Act, it is declared that the languages deemed to be commonly in use in the Punjab and its Dependencies are English and Urdu; but documents presented for registration may be written in any language. In case, however, of the language being other than Urdu, they must be accompanied by a true Urdu translation, and also by a true copy; provided that documents written in English need not be accompanied by translations or copies when presented at the office of a registrar, or of a sub-registrar at the head-quarters of a district, or when the registering officer is a European officer.

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TERRITORIAL DIVISIONS.

9. The territorial divisions to be recognized under Section 21 are the "district" and the "tahsil" as existing for revenue purposes, and where a tahsil is divided into parganas, the "pargana." The names of these divisions shall be entered in all documents relating to houses (other than those situate in towns) and lands, in addition to the name of the village and the boundaries of the property.

FINES.

10. Fines for delay in presenting documents for registration shall be levied, under Section 24, according to the following scale. No registration fees shall be levied in addition to these fines :—

| | |
|---|---|
| Where the delay has not been more than one month. | An amount equal to twice the proper registration fee. |
| Where the delay has been more than one month, but not more than two. | An amount equal to three times the proper registration fee. |
| Where the delay has been more than two months, but not more than three. | An amount equal to six times the proper registration fee. |
| Where the delay has been more than three months. | An amount equal to ten times the proper registration fee. |

Additional fines for delay in appearance shall be levied, under the proviso in Section 34, according to the same scale.

11. Applications to the Inspector-General for remission in whole or in part, under Section 70, of any fine levied in accordance with the foregoing Rule, shall be in writing, and shall be forwarded by the registrar of the district, who shall record his opinion thereon. No such application shall be received or forwarded unless the document has been registered, and the fine or fines paid.

OATHS.

12. The discretion vested in registering officers by Section 63 should be used with reserve, and oaths administered only in exceptional cases. For the purposes of this section, an oath includes an affirmation under Section 6 of Act X of 1873.

13. Statements made on oath under Section 63 shall not be recorded on the document to which they relate, but on separate sheets of paper, which shall be filed in the office. A note, however, to the effect that recorded evidence has been taken shall in such case be endorsed on the document, and entered in the book in which it is registered, in the column provided for copies of endorsements.

MEMORANDA OF DOCUMENTS.

14. The memoranda of documents registered required to be made under Sections 64, 65, 66, and 67, shall be prepared upon printed forms, to be supplied from the office of the Inspector-General, containing the following headings :—

(1). Date of execution.
(2). Name and addition of executant.
(3). Name and addition of person in whose favour executed.
(4). Nature and value of transaction.
(5). Description of immoveable property concerned.
(6). Particulars of registration.

The "addition" of the persons concerned to be entered in columns (2) and (3) is the "addition" as described in Section 3 of the Act, and the word is to be so interpreted when similarly used throughout these rules. Column (4) should describe the transaction briefly, as "sale of agricultural land," or as the case may be. The description of the property in column (5) should contain as nearly as possible the particulars mentioned in Section 21, and should always be sufficient for its identification ; and only that portion of the property which is situate in the sub-district to which the memorandum is sent should be entered. Column (6) should show the date and office of registration, the registry number, and the book, volume and page where it has been registered.

15. When a registrar receives a copy under Section 65, 66, or 67, of an English document which requires that memoranda be forwarded to sub-registrars who do not understand English, the memoranda shall be prepared in Urdu.

AUTHENTICATION OF REGISTER BOOKS.

16. Every entry made in register books Nos. 1, 3 and 4, shall be an exact counterpart of the original and shall be carefully compared with it : all interlineations, blanks, erasures or alterations which appear in the original shall be shown in the copy entered in the register. The registering officer shall satisfy himself that this has been done, verifying by his signature

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or initials any corrections rendered necessary by mere errors of transcription, but no su correction shall be made by erasure with a knife. The registering officer shall also see th the entry has been made in the book to which it properly belongs, that the number affixed it is that which it ought to bear in order to maintain the consecutive series required b Section 53, and that the book, the volume, and the page entered in the certificate of registra tion are correctly stated; after which he shall authenticate the entry by legibly affixing his signature in full, together with his official designation, at the end of the copy of the document registered. Copies of endorsements shall also be initialled or signed by the registering officer. All signatures must be copied into the register books in their proper places, whether such signatures occur in the original documents or in the endorsements made in the registry office. The entries in all the books prescribed by these rules shall be authenticated daily.

17. When by any chance an error has been made in the consecutive numbering of documents registered, as prescribed in Section 53, and the error is not discovered in time to admit of its correction before the document is given back to the presenter or the party authorized by him to receive it, the erroneous number must be allowed to stand, and no subsequent alteration is permitted; but a note of the error shall be made in the proper column of the register, and signed by the registering officer.

INDEXES.

18. The current indexes required by Section 54 to be kept up in every registration office, shall be prepared on printed forms to be supplied from the office of the Inspector-General, and shall contain the particulars hereinafter set forth.

19. Index No. I is that in which Section 55 requires that the names and additions of all persons executing, and of all persons claiming under every document entered or memorandum filed in Book No. I shall be entered. It shall contain the following headings :—

(1). Name of person.

(2). Father's name.

(3). Residence.

(4). Profession, trade, caste.

(5). Interest in the transaction (*e. g.* purchaser, mortgagee, &c.).

(6). Number of volume in which document is registered.

(7). Page of ditto.

(8) References (*i. e.*, to initial letters of other index entries relating to the same transaction).

This index shall contain the names and additions not only of the parties concerned in the documents copied into Book No. I, but also of those concerned in the copies or memoranda of documents received from other registration offices and filed under Sections 64, 65, 66 and 67, as well as those concerned in the copies of certificates granted by Revenue officers under the Land Improvement Act, 1871, and of certificates granted by Civil Courts under Section 316 of the Code of Civil Procedure, which are filed under Section 89 of the Registration Act.

20. Index No. II is that in which, by Section 55, the particulars mentioned in Section 21, relating to every document entered or memorandum filed in Book No. 1, are to be entered. It shall contain the following headings :—

(1). Name of city, town, or village.

(2). Name of tahsil or pargana.

(3). Name of district.

(4). Nature of transaction (*e. g.*, sale of land, lease of house, mortgage of land or house, &c.).

(5). Number of volume in which document is registered.

(6). Page of ditto.

A sub-registrar, on receiving a document of the nature mentioned in Section 64 or 65 shall enter in this index only that portion of the property which is situate in his own sub-district. A registrar on receiving a copy of a document under Section 65, 66 or 67, shall enter only the property situate in his own district. A sub-registrar on receiving a memorandum of a document under Section 63, 65, 66, or 67, or a copy of a certificate under Section 89, shall enter the particulars of the property concerned in this index.

21. Index No. III is that in which Section 55 requires the names and additions of all persons executing every Will and Authority to Adopt copied into Book No. 3, and of the executors and persons respectively appointed thereunder, and after the death of the testator or donor (but not before) the names and additions of all persons claiming under the same, shall be entered. It shall contain the same headings as Index No. I.

22. Index No. IV is that in which Section 55 requires the names and additions of all persons executing and of all persons claiming under every document copied into Book No. 4 to be entered. It shall contain the headings prescribed for Index No. I.

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23. Index entries shall be made on the same day as the document to which they relate is copied or filed in its proper register. They shall be made alphabetically, in Urdu, in the first instance on loose forms, a separate form being used for each letter of the alphabet. When any one of these forms becomes filled up in a sub-registrar's office, he shall cause a clearly written copy of it to be made without delay and forwarded to the registrar of his district, and open a fresh form for the same initial letter. On the expiration of the calendar year, the remaining entries under each letter shall be copied and forwarded to the registrar. In forwarding index sheets, the sub-registrar shall note at the foot of the 1st page of each sheet the date up to which it contains entries, and shall also attach his signature and the date of despatch: Provided that nothing in this rule shall require a sub-registrar to furnish the registrar of his district with copies of entries in his Index No. IV.

24. Registrars on receiving index sheets from their sub-registrars, shall file them with their own index sheets, each under its appropriate letter.

25. At the close of each calendar year, the loose index sheets in every office shall be bound into volumes of convenient size, care being taken that they are arranged in correct alphabetical order, and that the entries which, under Section 57, are open to public inspection (Indexes Nos. I and II) are bound separately from those which are not (Indexes Nos. III and IV).

26. In the case of natives, the first letter of the person's *name* shall be the guide to the letter under which the index entry is to be made, and not of his title or caste. In the case of Europeans, the initial letter of the surname shall be the guide. In the case of documents in which the Government is concerned, an index entry shall be made (amongst others) under the letter س (*sin*) as the initial letter of *Sarkar*.

HOLIDAYS.

27. The holidays to be observed in registration offices shall be those authorized by the Chief Court for the Civil Courts of the Province. All the provisions of Section 26 apply to such holidays, but it shall be optional with registering officers to keep their offices open during all or any of them, as they may think fit.

REGISTER BOOKS.

28. The books required by Section 51 to be kept in registration offices shall consist of printed forms to be supplied by the Inspector-General, containing the headings hereinafter described, and paged consecutively, bound in volumes of convenient size the number of pages in each volume being certified on the title page. These volumes shall be numbered consecutively (a separate series for each book), and the number shall not terminate with the calendar year, but shall run on perpetually. Every registering officer on receiving such a volume from the Inspector-General's office, shall immediately examine it, to see that it contains the certified number of pages, and that these have been numbered in proper consecutive order; and he shall note the result on the title page.

29. When a volume is filled up, the registering officer shall certify after the last entry the number of entries made therein during the current calendar year, and the number of pages on which they are written; he shall also examine those entries, and note in his certificate any errors or defects that he may discover.

30. At the close of each calendar year, the registering officer shall certify after the last entry of each current volume, the number of entries made in that volume during the year, and the number of pages on which they are written; he shall also examine those entries, and note in his certificate any errors or defects that he may discover. If no entry have been made during the year in any volume he shall certify to that effect.

31. Book No. I is the register of non-testamentary documents relating to immoveable property. It and the indexes relating thereto are open to public inspection, and copies of entries in them shall be given to all persons applying for them on payment of the prescribed fees. In this book shall be entered all documents registered under Sections 17 and 18 which relate to immoveable property and are not Wills. It shall contain the following headings :—

(1). Value of stamp, and copy of all endorsements made in the registry office.

(2). Serial number of entry, nature and value of transaction, and amount of registration and other fees and fines levied.

(3). Copy of document registered.

(4). Remarks.

32. But besides the ordinary entries in this book, the Act requires that the following documents shall be "filed in Book No. 1" :—

Copies of maps and plans (Section 61) :

Copies and memoranda of documents received from other registering officers (Sections 64 to 67) :

Copies of certificates granted by Revenue officers under the Land Improvement Act, 1871, and of certificates of sale granted by Courts under Section 316 of the Code of Civil Procedure (Section 89).

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To these may be added translations and copies of documents written in languages not in common use (Section 62).

To prevent the injury to the binding and the disturbance of paging which would result if these documents were filed in the bound volumes, a separate file book, hereinafter described to be called "Supplementary Book No. I," shall be kept in each office, in which the above mentioned documents shall be pasted in.

33. When any document is registered in Book No. 1 affecting some other document previously registered in it, a note referring to the latter document shall be entered in the column for remarks opposite the entry of the earlier document.

34. When a document is registered under Section 62, a note of the pages of Supplementary Book No. 1 on which the translation and copy have been filed shall be made in the column for remarks. A similar note shall be made when a copy of a map or plan is filed under Section 61.

35. Supplementary Book No. 1 is a file-book for the purpose of filing (pasting in) the copies and memoranda mentioned in Rule 32; it shall contain printed slips paged in consecutive order and having columns headed as follows :—

(1). Date of receipt of copy or memorandum.

(2). Date on which document was executed.

(3). Name and addition of executant.

As regards the copies of maps and plans, and the translations and copies of foreign instruments filed in this book under Sections 61 and 62, it will be sufficient to note thereon the registry number and date of registration of the document to which they appertain, and the volume and page where the entry will be found. But all other copies and memoranda filed in this book shall be numbered consecutively and the necessary particulars given of them in Indexes Nos. I. and II as provided in Rules 19 and 20.

36. Book No. 2 is the record of reasons for refusal to register. It is also open to public inspection, and copies of entries in it shall be given to all persons applying for them; in the event of the applicants being persons executing or claiming under the document, registration of which has been refused, or their representatives or agents, the copies shall be given free of charge. This book shall contain the following headings :—

(1). Serial number.

(2). Date of order of refusal.

(3). Name of person presenting document.

(4). Nature and value of transaction.

(5). Reasons for refusal.

(6). Remarks.

The reasons for refusal should be sufficiently full to enable an appellate or inspecting officer to judge of their sufficiency, but they need not contain a summary of any evidence which the registering officer may have taken; such evidence should be recorded in separate sheets of paper and filed in the office. When a document the registration of which was originally refused is subsequently registered by order of a registrar under Section 72 or 75, or of a Civil Court under Section 77, a note of such order shall be made in column (6) of this register opposite the original record of refusal.

37. When a registering officer refuses to register a document solely on the ground of want of jurisdiction, he shall hand it back to the person presenting it without recording an order of refusal either on the document or in his Book No. 2.

38. Under Section 30, clause (*a*), discretional authority is given to the registrar of a district to receive and register any document which might be registered by any sub-registrar subordinate to him; while the jurisdiction of the registrar of the Lahore District is extended by clause (*b*) so as to include documents relating to immoveable property situate in any part of British India. Registrars will exercise the discretion here given them with a due regard to the public convenience. Where the document is a Will or Authority to Adopt, or where it relates to a transaction in which the sub-registrar having jurisdiction is pecuniarily interested, or where it is written in English and the sub-registrar having jurisdiction is unacquainted with that language, the registrar should never refuse to accept it for registration, except for very cogent reasons. Where a registrar decides that a document presented to him under Section 30 ought to be registered in the office of a sub-registrar, he shall return it to the person presenting it without recording an order of refusal either on the document or in his Book No. 2. When the registrar of the Lahore District registers a document under Section 30, clause (*b*), he must carefully observe the provisions laid down in Section 67 of the Act.

39. Registering officers should bear in mind that they are in no way concerned with the validity of documents brought to them for registration, and that it would be wrong for them to refuse to register on any such grounds as the following, *e.g.*, that the executant was dealing with property not belonging to him, or that the instrument infringed the rights

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of third persons not parties to the transaction, or that the transaction was fraudulent or opposed to public policy. These and such like are matters for decision, if necessary, by competent Courts of law, but with which registering officers, as such, have nothing to do. If the document be presented in a proper manner by a competent person at the proper office within the time allowed by law, and if the registering officer be satisfied that the alleged executant is the person he represents himself to be, and if such person admit execution, the registering officer is *bound* to register the document without regard to its possible effects.

40. If any person admit the execution of a document presented for registration, but deny the receipt in whole or part of the consideration recited therein, registration shall not be refused because of such denial, but a note of the denial shall be made in the endorsement required by Section 58.

41. The fact that a document is not duly stamped under the Indian Stamp Act, 1879, is not, of itself, a sufficient reason for recording an order refusing to register it. The proper course is for the registering officer to impound the document and send it to the Collector as prescribed in that Act ; and if the document be received back from the Collector, cured of the defect of stamp, within the time allowed by law for registration, and it be otherwise admissible, the registering officer shall register it.

41½. If the executant of a document who is in doubt about the proper stamp consults a registering officer on the subject before formal presentation, the required information may be given to him without impounding the document.

[Note.—The above rule is added by No. 57, dated 6th December 1887, *Punjab Gazette* of 8th idem, Part I, p. 633.]

42. Orders refusing to register should be made only after due care and consideration, and if the impediment to registration be a mere informality or defect capable of remedy, opportunity should always be given to the parties to correct the flaw. In such cases registration shall be deferred, and no final order of refusal shall be made until the document concerned becomes time-barred.

43. When, under Section 35 of the Registration Act as amended by Act XII of 1879, registration is admitted as to some of the parties to a document, but is refused as to the rest, the registering officer shall endorse thereon an order in this form :—"Registration refused as to A. B. and C. D." and shall record the reason for this partial refusal in his Book No. 2 ; but in all other respects he shall proceed with the registration of the document in the ordinary manner.

44. Book No. 3 is the register in which Wills and Authorities to Adopt are to be copied after they have been accepted for registration under Section 41 ; also such Wills as have been opened under Sections 45 and 56. This book is *not* open to public inspection, nor are its indexes ; but copies of entries in it or them shall, on payment of the prescribed fees, be given to the persons executing the documents to which such entries relate, or to their agents, and after the death of the executants (but not before) to any person applying for such copies. The necessary search shall be made by the registering officer in person. When a Will entered in this book affects immoveable property situate in districts or sub-districts other than that where the entry has been made, no copy or memorandum of such Will need be sent to the registering officers of those districts or sub-districts. This register shall contain the same headings as Book No. 1.

45. To prevent mistakes, it is here explained that every document making posthumous disposition of property is a "Will," and should, when registered, be entered in Book No. 3. Further, that a document which merely declares the fact of having adopted a son or giving a son for adoption is *not* an authority "to adopt," and should *not* be entered in this book unless it contains testamentary dispositions which bring it within the above definition of "Will."

46. Book No. 4 is the Miscellaneous register in which are to be copied all documents registered under clauses (*d*) and (*f*) of Section 18, which do not relate to immoveable property. It is *not* open to public inspection, nor are its indexes: and copies of entries in it or them shall be given, on payment of the prescribed fees, only to the parties executing or claiming under the documents to which such entries relate or to the agents or representatives of such persons. The necessary search shall be made by the registering officer in person. This register shall contain the same headings as Book No. 1.

47. When under the provisions of Section 39 of Act I of 1877 (*The Specific Relief Act*), any registered document is cancelled by order of Court, and a copy of the decree is sent to the office in which it was registered, a note of the cancellation shall be made in red ink in the column for remarks of the proper register book, opposite the copy of the document cancelled, specifying the Court ordering cancellation and the No. and date of its decree. All copies of decrees received under this rule shall be filed in annual bundles.

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48. Book No. 5 is the register of deposit of Wills, and is to be kept only in the offices of registrars, who alone can receive Wills in sealed covers for deposit. It shall contain the following headings :—

(1). Serial number.

(2). Superscription on the sealed cover.

(3). Inscription on the seal of the cover.

(4). Time of presentation and receipt of the sealed cover :—

Year. Month. Day. Hour.

(5). Name of depositor.

(6). Names of persons testifying to the identity of depositor.

(7). Time of delivery of the sealed cover to applicant for withdrawal :—

Year. Month. Day. Hour.

(8). Names of persons testifying to the identity of the applicant at the time of delivery.

(9). Time of opening the sealed cover :—

Year. Month. Day. Hour.

Columns (1) to (6) shall be filled in when a Will is first deposited under Section 43 ; columns (7) and (8) shall be filled up in the event of the Will being subsequently withdrawn ; and column (9) shall be filled up when a Will is opened, after the death of the testator, under Section 45 or 46. All these several entries must be verified by the signature of the registrar for the time being. When a will has been removed by order of Court under Section 46, the fact shall be noted in red ink across the entry, and the note shall be authenticated by the signature of the registrar.

49. In addition to the above books there shall be kept in every registry office a memorandum book, to be called "Book No. 6," for the purpose of recording brief abstracts of powers of attorney authenticated under Section 33, clause (*a*). It shall contain the following headings :—

(1). Serial number.

(2). Date (year, month, day).

(3). Name and addition of principal executing the power.

(4). Name and addition of attorney.

(5). Names of persons identifying the principal.

(6). Value of stamp ; amount of fees levied ; and brief abstract of contents of power.

In the last of these columns it shall be noted, amongst other things, whether the instrument gives express or implied authority to the attorney to present a document for registration ; whether the power is a special or a general one ; and if special, in what registration office it is intended to be used.

50. The last 33 pages of each volume of this book shall contain an alphabetical index of the entries in it, one page being allowed for each letter of the Urdu alphabet. The index shall be in the following form :—

| Name of principal executing power. | Page. | Name of attorney. | Page. |
|---|---|---|---|
| | | | |

51. To prevent mistakes, it is here explained that the only description of power-of-attorney which a registering officer is competent to authenticate under Section 33 is one which contains authority to present a document for registration, and this is the only kind of power of which entries should be made in Book No. 6. A power-of-attorney may of course be *registered* like any other document, but it will not be valid for registration purposes unless it has been *authenticated* under Section 33. Accordingly, when a power-of-attorney is presented by a person who presumably does not understand the distinction between registration and authentication, and it be not a power which the registering officer can authenticate, he shall register the document in his Book No. 4. But if the power contain authority to present a document for registration, the registering officer shall explain the difference between authentication and registration, and ascertain the presenter's exact wishes in respect of the document. There is nothing, of course, to prevent such a document being registered as well as authenticated if the principal wishes it, but in that case the two operations shall be treated as separate transactions and the usual fees shall be levied for both.

52. Registrars and sub-registrars shall keep up such books and accounts in addition to those above mentioned, and shall render such monthly and annual returns as the Inspector-General may from time to time prescribe.

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53. The consecutive numbers of entries in each book prescribed in Section 62 shall commence and terminate with the *calendar* year. But the annual returns shall be prepared by the *official* year.

54. If in any office the number of documents to be registered be so large that there is difficulty in entering them day by day in the appropriate registers, the registering officer may, with the previous sanction of the Inspector-General, keep up concurrently two volumes of any register book, the documents bearing even numbers being entered in one volume, and those bearing odd numbers in the other.

PROCEDURE.

55. All documents shall be presented and registered at the office at the head-quarters of each district or sub-district, as the case may be, except in cases specially provided for by the Act.

56. Commissions issued under Section 33 or 38 shall not be directed to a registry moharrir.

57. Where registering officers have other duties to perform, a certain portion of each day shall be allotted exclusively to registration work. The time so set apart shall be made generally known, and a written notice of it shall be exhibited in a conspicuous and accessible part of the building in which the registry office is located. The notice shall state the hours at which documents will be received and returned daily.

58. At the hours appointed in the notice, the registering officer shall personally receive all documents for which registration is sought, have them examined in his own presence, and if they be admissible, inform each party of the amount of fees he has to pay, and as soon as such fees are paid, the receipt prescribed in Section 52 shall be given to him. If in payment of the fees any party pay more than the exact amount due, the excess shall be returned to him at once.

59. Documents executed by persons who are unable to read shall be read out and if necessary explained to them, and the registering officer shall ascertain that they clearly understand their purport. Documents written in a language which the executants do not understand shall in like manner be interpreted and explained.

60. When the necessary endorsements have been recorded, the documents shall be made over to the registry moharrir for the purpose of being entered in their appropriate registers and as soon as this has been done, the moharrir shall return the documents to the registering officer, who shall retain them in his own possession until the time appointed for returning the documents comes round, and then cause each to be delivered in his own presence to the proper party, the receipt given for it under Rule 58 being at the same time taken back. If the party to whom the receipt was granted represent that he has lost or mislaid it, the document may be returned to him on his written acknowledgment of its return. The document shall in no case be returned to any one but the person who presented it for registration, or to his representative or agent, unless the person claiming to receive it produce the original receipt with a nomination in writing thereon as contemplated in Section 61.

61. Registering officers shall maintain a vigilant control over their moharrirs, and not place them in closer contact with the public than is unavoidable. The receiving of documents or of money, the recording of endorsements, and the returning of the documents shall not be left to the moharrirs to do at any time, or in the absence of the registering officer.

62. When the registering officer is not personally acquainted with executants he shall require them to produce persons to testify to their identity who are personally known to him or to some other person whom he personally knows. He may also, if he think fit, cause descriptive rolls to be recorded of the persons representing themselves as executants; but this procedure must be in addition to, and not take the place of, the positive procedure required by Section 34, that the registering officer shall satisfy himself of their identity, for it must be borne in mind that such descriptive rolls afford in themselves no proof of identity.

63. If the person presenting the document be an agent, he must produce a power-of attorney authenticated in the manner prescribed in Section 33 of the Act. If he be a representative or assign he must produce evidence of his *status*.

ENDORSEMENTS.

64. Endorsements shall always be written by or in the presence of the registering officer and of the parties concerned. They should be, as far as possible, in the language best understood by the parties, that is to say, in English where the parties are Europeans, and in Urdu where they are natives. The following forms of endorsements shall be adhered to as far as the circumstances of each case will permit :—

*A.—Forms of endorsements for authenticating powers-of-attorney under Section 33.*

**(1). When the principal attends at the registration office:**

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"This power-of-attorney has been executed before me by (*name and addition*) who is a resident of my district (*or sub-district*) and is personally known to me," or, "is identified by———who is personally known to me."

*Date* *Signature of registering officer.*

(2). When the registering officer visits the principal at his residence, or in Jail :—

"I have satisfied myself by personal visit that this power-of-attorney has been voluntarily executed by," &c. *as before.*

(3). When a commission is issued to obtain evidence as to the voluntary nature of the execution :—

"I have satisfied myself through (*name*) to whom a commission was issued for the purpose that this power-of-attorney was voluntarily executed by (*name and addition*) who is a resident of my district (*or sub-district*)."

*Date* *Signature of registering officer.*

*B.—Forms of endorsements to be recorded on Wills in deposit, the sealed covers of which have been opened under Section 45 or 46.*

(4). When the Will is opened on application after the death of the testator under Section 45 :—

"Having satisfied myself that the testator hereof is dead, this Will has been opened on the application and in the presence of (*name and addition*) this———day———of."

*Signatures of registrar and applicant.*

(5). When a Will is removed into Court under Section 46 :—

"Opened and removed into the Court of———pursuant to order dated———."

*Date* *Signature of registrar.*

*C.—Forms of endorsements to be recorded on every document presented for registration under Section 52.*

(6). When presented at the registration office by some person executing or claiming under it :—

"Presented by (*name and addition*) at the office of the registrar (*or sub-registrar*) of——this——day of———between the hours of——and——A.M. (or P.M.).

*Date* *Signatures of registering officer and presenter.*

(7). When presented at the registration office by a representative or assign :

"Presented by (*name and addition*) representative (*or assign*) of——, at the office," &c., *as before.*

(8). When presented at the registration office by an agent :—

"Presented by (*name and addition*) who holds a duly authenticated power-of-attorney authorizing him to appear on behalf of——, at the office," &c., *as before.*

(9). When the document is accepted for registration at a private residence under Section 31 :—

"Presented by (*name and addition*) at his private residence, this——," &c., *as before.*

*D.—Forms of endorsements to be recorded under Section 58 on every document admitted to registration, other than a copy of a decree or order, or of a certificate sent under Section 89.*

(10). When the person purporting to have executed the document admits such execution :—

"Execution admitted by (*name and addition*) who is personally known to the registering officer";—*or*, "is identified by———and———, these witnesses being personally known to the registering officer."

*Date* *Signature of registering officer, executant and witnesses.*

(11). When any payment of money or delivery of goods is made before the registering officer, or when the executant admits (or denies) the receipt in whole or part of the consideration, the foregoing form will be modified and the fact recorded, *e. g.* :—

"Execution admitted and receipt of consideration (*or of Rs.——in part of consideration*) acknowledged by," &c., *as before*; *or*, (*after* "personally known to the registering officer," :—

"in whose presence the sum of Rs.———, being the consideration (*or part of the consideration*) recited herein, has been paid to the said———" &c, *or*,

"The said———denies receipt of the consideration herein recited."

(12). When the executant admits execution of the document, but refuses to sign the endorsement :—

"The above executant A. B. refuses to sign this endorsement."

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(13). When the execution is admitted by an agent :—

"Execution by (*executant*) admitted by (*name and addition*), who is authorized in that behalf by a duly authenticated power-of-attorney. The said (*agent*) is identified by——— &c., *as before.*

(14). When the execution is admitted by a representative or assign :—

"Execution by (*executant*) admitted by (*name and addition*), of whose right to appear as the representative (*or assign*) of the said (*executant*), the registering officer is satisfied. The said (*representative or assign*) is identified by —," &c., *as before.*

(15). When the executant is dead :—

"Execution by (*executant*), deceased, admitted by ———," &c., *as before.*

(16). When the document is one executed by any officers mentioned in Sec. 88 :—

"Having satisfiedmyself that this document was executed by A. B. Official Trustee (*or as the case may be*) in his official capacity, his attendance and signature are dispensed with and this document is admitted to registration."

*Date* *Signature of registering officer.*

E. *Form of endorsement to be recorded under Section 60, on every document registered including Wills which have been opened and copied into Book No. 3, under Secs. 45 & 46.*

(17). "Registered as No.—in book———, No.—, volume ———on page (*or pages*)——— this——day of———."

*Date* *Signature of registering officer.*

65. When there is not sufficient vacant space on the back of a document for the necessary endorsements, they may be written or continued on a separate piece of paper attached to the document (*vide* definition of "endorsement" in Section 3 of the Act); but in such case both the document and its rider must bear the seal and signature of the registering officer.

TRANSLITERATION.

66. In all English endorsements and entries, proper oriental names of persons and places shall be spelled according to the "modified Jonesian system" prescribed in Punjab Government Circular No. 64, dated 3rd October 1873, published in the *Punjab Government Gazette* of 9th idem. Provided that where the spelling of any place has been authoritatively fixed by Government, that authorized spelling shall be followed.

SEALS.

67. Every registrar and sub-registrar has been provided with a seal, as required by Section 15, bearing an inscription, in English and Urdu, of the authorized designation of his office. This seal shall always remain in the personal custody of the registering officer, and shall be used for the authentication of the following :—

(1). All powers-of attorney attested under Section 33, clause (*a*).

(2). All Commissions issued under Sections 33 and 38.

(3). All applications for the issue of summons to witnesses under Section 36.

(4). All copies of entries in register books and indexes granted under Section 57.

(5). All certificates of registration made under Section 60.

(6). All copies of reasons for refusal to register granted under Section 71 or 76.

(7). All orders issued by registrars under Section 72 or 75, directing documents to be registered.

(8). All summonses issued by registrars under Section 75.

68. When a seal which has become unfit for use is replaced by a new one, the former shall be destroyed in the presence of the registrar of the district. The seals of offices permanently closed shall be destroyed in the same manner ; those of offices temporarily closed shall remain in the personal custody of the registrar of the district All new seals, whether for newly created offices, or to replace others which have become unfit for use, shall be supplied from the office of the Inspector-General.

PROSECUTIONS.

69. Full reports of all prosecutions instituted under Part XIV. of the Indian Registration Act shall be made to the Inspector-General as soon as possible after decision, and shall be accompanied by a copy of the judgment of the Court. A preliminary report shall also be made to the Inspector-General as soon as any such prosecution is commenced, setting forth briefly the circumstances which led to the prosecution. (*Punjab Government Notification No. 3947, dated 10th December 1880, Punjab Gazette of 16th idem*).

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(*d*) —The subjoined revised table of fees prepared under Section 78 of Act III of 1877 (The Indian Registration Act) has been approved by the Governor-General in Council, and is herewith published for general information :—

The Hon'ble the Lieutenant Governor is pleased to declare that the fees set forth therein shall be payable for the registration of documents and other matters therein described from 1st April 1879.

| | Rs. | A. | P. |
|---|---|---|---|
| ARTICLE I.—For the registration of documents : | | | |
| (1) In Book I, " Register of non-testamentary documents relating to immoveable property—" | | | |
| When registration is obligatory under Section 17 ... ... ... ... | 2 | 8 | 0 |
| When it is optional under Section 18 ... ... ... ... ... | 0 | 8 | 0 |
| (2) In Book III, " Register of wills and authorities to adopt" ... ... | 4 | 0 | 0 |
| (3) In Book IV, " Miscellaneous Register" ... ... ... ... ... | 1 | 0 | 0 |

Provided that no fee shall be leviable for the registration of security bonds furnished by Court Inspectors and Assistant Court Inspectors of Police under the provisions of Chapter XIII. of the Punjab Police Code.

NOTE.—*The above proviso is added by Notification No.* 61 *dated* 11*th December* 1885, (*Punjab Gazette of* 17*th idem, Part I, page* 1155).

| | | | |
|---|---|---|---|
| ARTICLE II.—For searching the Registers : | | | |
| For the first hour, or part thereof ... ... ... ... ... ... | 1 | 0 | 0 |
| For each subsequent hour, or part of an hour ... ... ... ... ... | 0 | 8 | 0 |
| ARTICLE III.—For making or granting copies of reasons, entries or documents before, on, or after registration ... ... ... ... ... ... ... ... ... | 0 | 8 | 0 |

NOTE (*a*).—When the registration is refused, neither registration nor copying fee is to be levied. Copies of reasons granted before registration are those which, in case of refused registration, are given on application made by any person executing or claiming under the document as provided in Section 76 of the Act.

NOTE (*b*).—When application for a copy under Section 57 necessitates a search, the fee prescribed by Article II is to be levied in addition to that chargeable under Article III.

NOTE (*c*).—Government officers who may require to search the registers or take copies of entries in the registers for *bonâ fide* public purposes will be exempted from payment of the fees under Articles II and III on a certificate being granted by the registrar of the district that the information is required solely in the interests of Government.

| EXTRA OR ADDITIONAL FEES. | Rs. | A. | P. |
|---|---|---|---|
| ARTICLE IV.—For discretionary registration under Section 30 :— | | | |
| (1). By the registrar of the district under Clause (*a*) ... ... ... ... | 4 | 0 | 0 |
| (2). By the registrar of the Lahore District under Clause (*b*) ... ... ... | 10 | 0 | 0 |

NOTE.—The additional fee under this Article is not payable on the registration of Wills and Authorities to Adopt.

Nor is it to be levied in cases where the sub-registrar, owing to his being pecuniarily interested in the transaction, or to his being unacquainted with the language in which the deed is written, or for any other sufficient reason, is unable to register himself.

| | | | |
|---|---|---|---|
| *ARTICLE V.—For the issue of commissions, and for attending at private residences :— | | | |
| (1). When a satisfactory certificate is produced as to sickness or infirmity, or when the person to be examined is in jail ... ... ... ... ... ... ... | 5 | 0 | 0 |
| (2). In all other cases ... ... ... ... ... ... ... ... | 10 | 0 | 0 |

NOTE.—In addition to this fee, travelling allowance at the following rates is to be levied for the actual distance travelled over, provided that the place visited is more than one mile from the registration office :—

†In the case of Government officials according to the rates prescribed in the Civil Travelling Allowance Code.

In the case of all other registering officers, and of commissioners, if appointed, 1½ annas a mile by rail, and 4 annas a mile by road.

| | | | |
|---|---|---|---|
| ARTICLE VI.—For filing translations ... ... ... ... ... ... | 1 | 0 | 0 |

* See Registration Circulars No. 8 and 10 of 1883.

† See Notification No. 39, dated 2nd July 1883, *Punjab Gazette* of 5th idem, Part I, page 391.

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| | Rs. | A. | P. |
|---|---|---|---|
| ARTICLE VII.—For deposit, withdrawal, and opening of sealed Wills :— | | | |
| (1). When deposited in sealed cover under Section 42 ... ... ... ... | 4 | 0 | 0 |
| (2). When withdrawn under Section 44 ... ... ... ... ... ... | 2 | 0 | 0 |
| (3). When opened under Section 45 ... ... ... ... ... ... | 4 | 0 | 0 |

NOTE.—No fee beyond the copying fee under Article III shall be levied for copying into Book No. 3 wills opened under Section 45.

| | | | |
|---|---|---|---|
| ARTICLE VIII.—For the authentication of a power-of-attorney under Section 33. | 1 | 0 | 0 |

ARTICLE IX.—When under Section 36, application is made to issue and serve a summons, process fees and remuneration of the person summoned, at the rate prescribed for the Civil Courts of the Province are to be levied from the person at whose instance or in whose behalf the application is made, and forwarded with the application. When, however, the person summoned is the person who has executed the document, remuneration is not to be allowed him.—(*Punjab Government Notification No.* 1119, *dated* 26*th March* 1879, *Punjab Gazette of* 27*th idem*).

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Under the authority conferred upon the Local Government by Section 78 of Act III of 1877 (*The Indian Registration Act*), the Hon'ble the Lieutenant-Governor is pleased, with the approval of the Governor-General in Council, to make the following addition to the Table of Registration Fees prescribed in Punjab Government Order No. 1119, dated 26th March 1879, with effect from 1st October 1887 :—

*Article* X.—For the safe custody of documents remaining unclaimed after registration, or after registration is refused—

| | Rs. | A. | P. |
|---|---|---|---|
| When application for return of a registered document, or of a document registration of which has been refused, is made more than one week, but not more than two weeks from the date of such registration or refusal ... ... ... | 0 | 4 | 0 |
| And for delay in applying for return of such document beyond two weeks, for each week or fraction thereof ... ... ... ... ... ... ... ... | 0 | 4 | 0 |
| Provided that the maximum fee leviable under this article in the case of a single document shall not exceed ... ... ... ... ... ... ... ... | 5 | 0 | 0 |

NOTE.—The Inspector-General of Registration is empowered in his discretion to remit, in whole or in part, fees levied under this article in cases in which it appears to him that their exaction would be productive of injustice or hardship. (*Punjab Government Notification No.* 44, *dated* 28*th September* 1887, *Punjab Gazette of* 29*th idem, Part I, page* 549). See also Registration Circulars Nos. 6 and 7 of 1887.

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(*e*). At the request of His Honor the Lieutenant-Governor, the Chief Court directs that in every case in which a registered document is discredited by a Civil Court a copy of the judgment in which the document is discredited shall be forwarded for the information of the Inspector-General of Registration.—(*Judicial Circular No. XXIII, para* 5).

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(*f*). As regards the cancellation of the stamps on powers-of-attorney presented for registration, see Registration Circular No. 4 of 1878.

For instructions relating to the registration of deeds of adoption, see Registration Circular No. 4 of 1879.

For consolidated instructions concerning the appointment and remuneration of registering officers, see Registration Circular No. 10 of 1886.

For instructions to be followed when a document is presented for registration executed on unstamped paper, exemption from stamp duty being claimed under Sch. II, Art. 18 of the Stamp Act, 1879, see Registration Circular No. 6 of 1880.

For instructions concerning the Books and Records to be maintained in Registration offices (being supplementary to those contained in Rules 18 to 26, and 28 to 54, contained in Notification No. 3947, dated 10th December 1880, (*ante* Note (*c*) ) see Registration Circular No. 1 of 1881.

For consolidated instructions concerning establishments and contingencies of registration offices, see Registration Circular No. 2 of 1881.

For instructions concerning periodical returns to be rendered by registering officers, see Registration Circular No. 3 of 1881.

For instructions relating to procedure in registration offices, see Registration Circular No. 4 of 1881.

For instructions for conducting official correspondence, see Registration Circular No. 6 of 1881.

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## Act No. IX of 1877.

(*Passed on the 28th March* 1877).

An Act to revive and amend Act No. XXIII of 1867.

Preamble.

Whereas Act XXIII of 1867 (*for the suppression of murderous outrages in certain districts of the Punjab*) received the assent of the Governor-General on the 18th day of March 1867, and by Section 17 of the said Act was limited to expire in ten years from the date of passing it; And whereas it is expedient to revive the same Act and to amend it in manner hereinafter appearing; It is hereby enacted as follows :—

Act XXIII of 1867 to be revived.

1. The said Act shall be revived and shall remain in force until the Governor-General in Council otherwise directs.

Amendment of Act XXIII of 1867.

2. For the word "Commissioner" wherever it occurs in the said Act, the words "Sessions Judge or Commissioner" shall be substituted.

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## Act No. XI of 1877.

(*Passed on the 31st May* 1877).

An Act to facilitate the admission of Military Lunatics into Asylums.

Preamble.

Whereas it is expedient to facilitate the admission of European Military Lunatics into Asylums and to amend the law now in force with regard to the admission thereto of Native Military Lunatics; It is hereby enacted as follows :—

Short title.

1. This Act may be called the "Military Lunatics Act, 1877 :"

Local extent.

It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Native Princes and States in India in alliance with Her Majesty:

Commencement.

And it shall come into force on the passing thereof.

Repeal of Act XXI of 1872.

2. Act XXI of 1872 (*to facilitate the admission of Native Military Lunatics into Asylums*) shall be repealed.

Procedure in respect of European officer or soldier declared lunatic.

3. Whenever any European officer, warrant-officer, non-commissioned officer, soldier, or other person subject to the provisions of the Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters, for the time being in force, has been declared a lunatic in accordance with the provisions of the military regulations of the Presidency to which he belongs, and has been ordered to be forwarded to any one of the Presidency towns, and it appears to one of the Surgeons-General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs, that it is inexpedient that he should be removed to England, or that he should be detained in military custody until he can be conveniently sent to England, such Surgeon-General may, if he think fit, make an order under his hand for the reception of the said lunatic into the Lunatic Asylum at Bhowanipur, Madras, or Bombay, or such other Lunatic Asylum as may be duly authorized for the purpose by the Governor-General in Council;

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and the officer in charge of such asylum shall receive the lunatic in the asylum, and detain him therein until he is discharged therefrom, in accordance with the local military regulations in force for the time being, or until the Surgeon-General applies for his transfer to the military authorities in view to his removal to England.

Report in case of native officer or soldier appearing to be insane.

4. Whenever any native officer, non-commissioned officer, or soldier appears to be insane, the officer commanding the regiment or detachment to which he belongs shall report the case to the general officer commanding the division or district or force in which such regiment or detachment is serving.

Examination of native by committee.

5. Such general officer shall thereupon cause the said native to be examined by a committee composed of at least two medical officers, or (if this be impracticable) by a regimental committee comprising the officer in command of the wing or squadron to which the native belongs, and the medical officer in charge of the corps or detachment of which such wing or squadron forms part.

Procedure on native being found by committee to be insane.

6. If the said committee or regimental committee (as the case may be) are satisfied that the native is insane, the officer commanding the division or district or force may, if he think fit, make an order under his hand for the reception of the said native into a Lunatic Asylum, and shall then send him thither under military escort; and the officer in charge of such asylum shall receive the native into the asylum and detain him therein until he is discharged therefrom in accordance with the local military regulations in force for the time being.

Procedure for discharge of European or native military lunatic.

7. Whenever it appears to the officer in charge of a Lunatic Asylum that the discharge of a military lunatic, whether European or native, is necessary either on account of his recovery, or for any other purpose, such person shall be brought before the visitors of the asylum, and on the visitors recording their opinion that the discharge should be made, the general officer commanding the division, district, or force, or other officer authorized to order the admission of military lunatics into asylums, shall forthwith direct him to be discharged, and such discharge shall take place in accordance with the local military regulations in force for the time being.

Payment of expenses of lunatic.

8. The paymaster of the military circle within which any such asylum is situate shall pay to the officer in charge of such asylum the expense of the lodging, maintenance, clothing, and medicine of every lunatic, whether European or native, received and detained under this Act.

Legalization of past receptions in asylum.

9. All military lunatics heretofore received into Lunatic Asylums shall be deemed to have been so received in accordance with law.

## ACT No. XV of 1877.

(*Passed on the* 19*th July* 1877).

An Act for the Limitation of Suits, and for other purposes.

Preamble.

Whereas it is expedient to amend the law relating to the limitation of suits, appeals, and certain applications to Courts; And whereas it is also expedient to provide rules for acquiring by possession the ownership of easements and other property; It is hereby enacted as follows:—

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## PART I.

### PRELIMINARY.

Short title.

1. This Act may be called "The Indian Limitation Act, 1877."

Extent of Act.

It extends to the whole of British India; but nothing contained in sections two and three or in Parts II and III applies—

(a) to suits under the Indian Divorce Act, or

(b) to suits under Madras Regulation VI of 1831;

Commencement.

And it shall come into force on the first day of October 1877.

Repeal of Acts.

2. On and from that day the Acts mentioned in the first schedule hereto annexed shall be repealed to the extent therein specified.

References to Act IX of 1871. Saving of titles already acquired. Saving of Act IX of 1872, Section 25.

But all references to the Indian Limitation Act, 1871, shall be read as if made to this Act; and nothing herein or in that Act contained shall be deemed to affect any title acquired, or to revive any right to sue barred, under that Act or under any enactment thereby repealed; and nothing herein contained shall be deemed to affect the Indian Contract Act, Section 25.

Suits for which period prescribed by this Act is shorter than that prescribed by Act IX of 1871.

Notwithstanding anything herein contained, any suit mentioned in No. 146 of the second schedule hereto annexed may be brought within five years next after the said first day of October 1877, unless where the period prescribed for such suit by the said Indian Limitation Act, 1871, shall have expired before the completion of the said five years; and any other suit for which the period of limitation prescribed by this Act is shorter than the period of limitation prescribed by the said Indian Limitation Act, 1871, may be brought within two years next after the said first day of October 1877, unless where the period prescribed for such suit by the same Act shall have expired before the completion of the said two years.

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context—

'plaintiff' includes also any person from or through whom a plaintiff derives his right to sue; 'applicant' includes also any person from or through whom an applicant derives his right to apply; and 'defendant' includes also any person from or through whom a defendant derives his liability to be sued:

'easement' includes also a right, not arising from contract, by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another, or any thing growing in, or attached to, or subsisting upon the land of another:

'bill of exchange' includes also a hundi and a cheque:

'bond' includes any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be:

'promissory note' means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight:

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'trustee' does not include a benámídár, a mortgagee remaining in possession after the mortgage has been satisfied, or a wrong-doer in possession without title :

'suit' does not include an appeal or an application :

'registered' means duly registered in British India under the law for the registration of documents in force at the time and place of executing the document, or signing the decree or order, referred to in the context :

'foreign country' means any country other than British India :

and nothing shall be deemed to be done in 'good faith' which is not done with due care and attention.

## PART II.

### LIMITATION OF SUITS, APPEALS AND APPLICATIONS.

Dismissal of suits, &c., instituted, &c., after period of limitation.

4. Subject to the provisions contained in sections five to twenty-five (inclusive), every suit instituted, appeal presented, and application made after the period of limitation prescribed therefor by the second schedule hereto annexed, shall be dismissed, although limitation has not been set up as a defence.

*Explanation.*—A suit is instituted in ordinary cases when the plaint is presented to the proper officer ; in the case of a pauper, when his application for leave to sue as a pauper is filed ; and in the case of a claim against a company which is being wound up by the Court, when the claimant first sends in his claim to the official liquidator.

*Illustrations.*

(*a*).—A suit is instituted after the prescribed period of limitation. Limitation is not set up as a defence, and judgment is given for the plaintiff. The defendant appeals. The appellate Court must dismiss the suit.

(*b*).—An appeal presented after the prescribed period is admitted and registered. The appeal shall, nevertheless, be dismissed.

Proviso where Court is closed when period expires.

5. If the period of limitation prescribed for any suit, appeal, or application expires on a day when the Court is closed, the suit, appeal, or application may be instituted, presented, or made on the day that the Court re-opens :

Proviso as to appeals and applications for review.

Any appeal or application for a review of judgment may be admitted after the period of limitation prescribed therefor, when the appellant or applicant satisfies the Court that he had sufficient cause for not presenting the appeal or making the application within such period.

Special and local laws of limitation.

6. When, by any special or local law now or hereafter in force in British India, a period of limitation is specially prescribed for any suit, appeal, or application, nothing herein contained shall affect or alter the period so prescribed.

Legal disability.

7. If a person entitled to institute a suit or make an application be, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the second schedule hereto annexed.

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Double and successive disabilities.

When he is, at the time from which the period of limitation is to be reckoned, affected by two such disabilities, or when, before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period after both disabilities have ceased as would otherwise have been allowed from the time so prescribed.

When his disability continues up to his death, his legal representative may institute the suit or make the application within the same period after the death as would otherwise have been allowed from the time so prescribed.

Disability of representative.

When such representative is at the date of the death affected by any such disability, the rules contained in the first two paragraphs of this section shall apply.

Nothing in this section applies to suits to enforce rights of pre-emption, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which any suit must be instituted or application made.

*Illustrations.*

(*a*).—The right to sue for the hire of a boat accrues to A during his minority. He attains majority four years after such accruer. He may institute his suit at any time within three years from the date of his attaining majority.

(*b*).—A, to whom a right to sue for a legacy has accrued during his minority, attains majority eleven years after such accruer. A has, under the ordinary law, only one year remaining within which to sue. But under this section an extension of two years will be allowed him, making in all a period of three years from the date of his attaining majority within which he may bring his suit.

(*c*).—A right to sue accrues to Z during his minority. After the accruer, but while Z is still a minor, he becomes insane. Time runs against Z from the date when his insanity and minority cease.

(*d*).—A right to sue accrues to X during his minority. X dies before attaining majority, and is succeeded by Y, his minor son. Time runs against Y from the date of his attaining majority.

(*e*).—A right to sue for an hereditary office accrues to A, who at the time is insane. Six years after the accruer A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under this section.

(*f*).—A right to sue as landlord to recover possession from a tenant accrues to A who is an idiot. A dies three years after the accruer, his idiocy continuing up to the date of his death. A's representative in interest has, under the ordinary law, nine years from the date of A's death within which to bring a suit. This section does not extend that time, except where the representative is himself under disability when the representation devolves upon him.

Disability of one joint-creditor.

8. When one of several joint creditors or claimants is under any such disability, and when a discharge can be given without the concurrence of such person, time will run against them all: but where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others.

*Illustrations.*

(*a*).—A incurs a debt to a firm of which B, C, and D are partners. B is insane and C is a minor. D can give a discharge of the debt without the concurrence of B and C. Time runs against B, C and D.

(*b*).—A incurs a debt to a firm of which E, F, and G are partners. E and F are insane and G is a minor. Time will not run against any of them until either E or F becomes sane, or G attains majority.

**Continuous running of time.**

9. When once time has begun to run, no subsequent disability or inability to sue stops it:

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Provided that where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for a suit to recover the debt shall be suspended while the administration continues.

Suits against express trustees and their representatives.

10. Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property, shall be barred by any length of time.

Suits on foreign contracts.

11. Suits instituted in British India on contracts entered into in a foreign country are subject to the rules prescribed by this Act.

Foreign limitation law.

No foreign rule of limitation shall be a defence to a suit instituted in British India on a contract entered into in a foreign country, unless the rule has extinguished the contract, and the parties were domiciled in such country during the period prescribed by such rule.

## PART III.

### Computation of Period of Limitation.

Exclusion of day on which right to sue accrues.

12. In computing the period of limitation prescribed for an appeal or application, the day from which such period is to be reckoned shall be excluded.

Exclusion in case of appeals and certain applications.

In computing the period of limitation prescribed for an appeal, an application for leave to appeal as a pauper and an application for a review of judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence, or order appealed against or sought to be reviewed, shall be excluded.

Where a decree is appealed against or sought to be reviewed, the time requisite for obtaining a copy of the judgment on which it is founded shall also be excluded.

In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

Exclusion of time of defendant's absence from British India.

13. In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from British India shall be excluded.

Exclusion of time of proceeding *bonâ fide* in Court without jurisdiction.

14. In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in a Court of appeal, against the defendant, shall be excluded, where the proceeding is founded upon the same cause of action, and is prosecuted in good faith in a Court which from defect of jurisdiction, or other cause of a like nature, is unable to entertain it.

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Like exclusion in case of order under Civil Procedure Code, S. 20.

In computing the period of limitation prescribed for a suit, proceedings in which have been stayed by order under the Code of Civil Procedure, Section 20, the interval between the institution of the suit and the date of so staying proceedings, and the time requisite for going from the Court in which proceedings are stayed to the Court in which the suit is re-instituted, shall be excluded.

Like exclusion in case of application.

In computing the period of limitation prescribed for any application, the time during which the applicant has been making another application for the same relief shall be excluded, where the last-mentioned application is made in good faith to a Court which from defect of jurisdiction, or other cause of a like nature, is unable to grant it.

*Explanation* 1.—In excluding the time during which a former suit or application was pending or being made, the day on which that suit or application was instituted or made, and the day on which the proceeding therein ended, shall both be counted.

*Explanation* 2.—A plaintiff resisting an appeal presented on the ground of want of jurisdiction shall be deemed to be prosecuting a suit within the meaning of this section.

Exclusion of time during which commencement of suit is stayed by injunction or order.

**15.** In computing the period of limitation prescribed for any suit, the institution of which has been stayed by injunction or order, the time of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

Exclusion of time during which judgment-debtor is attempting to set aside execution sale.

**16.** In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which the judgment-debtor has been prosecuting a proceeding to set aside the sale shall be excluded.

Effect of death before right to sue accrues.

**17.** When a person who would, if he were living, have a right to institute a suit or make an application, dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting or making such suit or application.

When a person against whom, if he were living, a right to institute a suit or make an application would have accrued dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute or make such suit or application.

Nothing in the former part of this section applies to suits to enforce rights of pre-emption or to suits for the possession of immoveable property or of an hereditary office.

Effect of fraud.

**18.** When any person having a right to institute a suit or make an application has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

or where any document necessary to establish such right has been fraudulently concealed from him,

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the time limited for instituting a suit or making an application

(*a*) against the person guilty of the fraud or accessory thereto, or

(*b*) against any person claiming through him otherwise than in good faith and for a valuable consideration,

shall be computed from the time when the fraud first became known to the person injuriously affected thereby, or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

Effect of acknowledgment in writing.

**19.** If, before the expiration of the period prescribed for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a new period of limitation, according to the nature of the original liability, shall be computed from the time when the acknowledgment was so signed.

When the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but oral evidence of its contents shall not be received.

*Explanation* 1.—For the purposes of this section an acknowledgment may be sufficient, though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance, or enjoyment has not yet come, or is accompanied by a refusal to pay, deliver, perform, or permit to enjoy, or is coupled with a claim to a set-off, or is addressed to a person other than the person entitled to the property or right.

*Explanation* 2.—In this section "signed" means signed either personally or by an agent duly authorized in this behalf.

Effect of payment of interest as such.

**20.** When interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by the person liable to pay the debt or legacy, or by his agent duly authorized in this behalf,

Effect of part payment of principal.

or when part of the principal of a debt is, before the expiration of the prescribed period, paid by the debtor or by his agent duly authorized in this behalf,

a new period of limitation according to the nature of the original liability, shall be computed from the time when the payment was made:

Provided that in the case of part-payment of the principal of a debt, the fact of the payment appears in the handwriting of the person making the same.

Effect of receipt of produce of mortgaged land.

Where mortgaged land is in the possession of the mortgagee, the receipt of the produce of such land shall be deemed to be a payment for the purpose of this section.

One of several joint contractors, &c., not chargeable by reason of acknowledgment or payment made by another of them.

**21.** Nothing in Sections 19 and 20 renders one of several joint contractors, partners, executors, or mortgagees chargeable by reason only of a written acknowledgment signed, or of a payment made by, or by the agent of, any other or others of them.

Effect of substituting or adding new plaintiff or defendant.

**22.** When, after the institution of a suit, a new plaintiff or defendant is substituted or added, the suit shall, as regards him, be deemed to have been instituted when he was so made a party:

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Proviso where original plaintiff dies.

Provided that, when a plaintiff dies, and the suit is continued by his legal representative, it shall, as regards him, be deemed to have been instituted when it was instituted by the deceased plaintiff :

Proviso where original defendant dies.

Provided also, that, when a defendant dies, and the suit is continued against his legal representative, it shall, as regards him, be deemed to have been instituted when it was instituted against the deceased defendant.

Continuing breaches and wrongs.

**23.** In the case of a continuing breach of contract, and in the case of a continuing wrong independent of contract, a fresh period of limitation begins to run at every moment of the time during which the breach or the wrong, as the case may be, continues.

Suit for compensation for act not actionable without special damage.

**24.** In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results therefrom, the period of limitation shall be computed from the time when the injury results.

*Illustrations.*

(*a*).—A owns the surface of a field. B owns the subsoil. B digs coal thereout without causing any immediate apparent injury to the surface, but at last the surface subsides. The period of limitation in the case of a suit by A against B runs from the time of the subsidence.

(*b*).—A speaks and publishes of B slanderous words not actionable in themselves without special damage caused thereby. C in consequence refuses to employ B as his clerk. The period of limitation in the case of a suit by B against A for compensation for the slander does not commence till the refusal.

Computation of time mentioned in instruments.

**25.** All instruments shall, for the purposes of this Act, be deemed to be made with reference to the Gregorian calendar.

*Illustrations.*

(*a*).—A Hindu makes a promissory note bearing a Native date only, and payable four months after date. The period of limitation applicable to a suit on the note runs from the expiry of four months after date computed according to the Gregorian calendar.

(*b*).—A Hindu makes a bond, bearing a Native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiry of one year after date computed according to the Gregorian calendar.

## PART IV.

### Acquisition of Ownership by Possession.

Acquisition of right to easement.

**26.** Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, and as of right, without interruption, and for twenty years,

and where any way or watercourse, or the use of any water, or any other easement (whether affirmative or negative) has been peaceably and openly enjoyed by any person claiming title thereto as an easement and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, way, watercourse, use of water, or other easement, shall be absolute and indefeasible.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

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*Explanation.*—Nothing is an interruption within the meaning of this section, unless where there is an actual discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof, and of the person making or authorizing the same to be made.

*Illustrations.*

(*a*).—A suit is brought in 1881 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January 1860 to 1st January 1880. The plaintiff is entitled to judgment.

(*b*).—In a like suit also brought in 1881 the plaintiff merely proves that he enjoyed the right in manner aforesaid from 1858 to 1878. The suit shall be dismissed, as no exercise of the right by actual user has been proved to have taken place within two years next before the institution of the suit.

(*c*).—In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had asked his leave to enjoy the right. The suit shall be dismissed.

Exclusion in favour of reversioner of servient tenement.

27. Provided that, when any land or water upon, over, or from which any easement has been enjoyed or derived, has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land or water.

*Illustration.*

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C, a Hindu widow, had a life interest in the land, that on C's death B became entitled to the land, and that within two years after C's death he contested A's claim to the right The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Extinguishment of right to property.

28. At the determination of the period hereby limited to any person for instituting a suit for possession of any property his right to such property shall be extinguished.

THE FIRST SCHEDULE.

| Number and year of Acts. | Title. | Extent of repeal. |
|---|---|---|
| X of 1865 ... ... | The Indian Succession Act. | In Section 321 the words "within two years after the death of the testator, or one year after the legacy has been paid." |
| IX of 1871 ... ... | The Indian Limitation Act, 1871. | The whole. |
| X of 1877 ... ... | The Code of Civil Procedure. | Section 599, and in Section 601 the words "within thirty days from the date of the order." |

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## THE SECOND SCHEDULE.

(*See Section* 4).

FIRST DIVISION : SUITS.

| Description of suit. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| | *Part I.—Thirty days.* | |
| 1.—To contest an award of the Board of Revenue under Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste-lands*). | Thirty days ... | When notice of the award is delivered to the plaintiff. |
| | *Part II.—Ninety days.* | |
| 2.—For compensation for doing, or for omitting to do, an act alleged to be in pursuance of any enactment in force for the time being in British India. | Ninety days ... | When the act or omission takes place. |
| | *Part III.—Six months.* | |
| 3.—Under the Specific Relief Act, 1877, Section 9, to recover possession of immoveable property. | Six months ... | When the dispossession occurs. |
| 4.—Under Act No. IX of 1860 (*to provide for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers*), section one. | Ditto ... | When the wages, hire, or price of work claimed accrue or accrues due. |
| 5.—Under the Code of Civil Procedure, chapter XXXIX (*of summary procedure on negotiable instruments*). | Ditto .. | When the instrument sued upon becomes due and payable. |
| | *Part IV.—One year.* | |
| 6.—Upon a Statute, Act, Regulation, or Bye-law, for a penalty or forfeiture. | One year. ... | When the penalty or forfeiture is incurred. |
| 7.—For the wages of a household servant, artisan, or labourer not provided for by this schedule, No. 4. | Ditto ... | When the wages accrue due. |
| 8.—For the price of food or drink sold by the keeper of a hotel, tavern, or lodging house. | Ditto ... | When the food or drink is delivered. |
| 9.—For the price of lodging. | Ditto ... | When the price becomes payable. |
| 10.—To enforce a right of pre-emption, whether the right is founded on law, or general usage, or on special contract. | Ditto ... | When the purchaser takes under the sale sought to be impeached, physical possession of the whole of the property sold, or, where the subject of the sale does not admit of physical possession, when the instrument of sale is registered. |

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THE SECOND SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

| Description of suit. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| | *Part IV.—One year*—continued. | |
| 11.—By a person against whom an order is passed under Section 280, 281, 282 or 335 of the Code of Civil Procedure, to establish his right to, or to the present possession of, the property comprised in the order. | One year. ... | The date of the order. |
| 12.—To set aside any of the following sales:— (*a*) sale in execution of a decree of a Civil Court; (*b*) sale in pursuance of a decree or order of a Collector or other officer of revenue; (*c*) sale for arrears of Government revenue, or for any demand recoverable as such arrears; (*d*) sale of a patni táluq sold for current arrears of rent. *Explanation.*—In this clause 'patni' includes any intermediate tenure saleable for current arrears of rent. | Ditto ... | When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought. |
| 13.—To alter or set aside a decision or order of a Civil Court in any proceeding other than a suit. | Ditto ... | The date of the final decision or order in the case by a Court competent to determine it finally. |
| 14.—To set aside any act or order of an officer of Government in his official capacity, not herein otherwise expressly provided for. | Ditto ... | The date of the act or order. |
| 15.—Against Government to set aside any attachment, lease, or transfer of immoveable property by the revenue authorities for arrears of Government revenue. | Ditto ... | When the attachment, lease or transfer is made. |
| 16.—Against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of arrears of revenue or on account of demands recoverable as such arrears. | Ditto ... | When the payment is made. |
| 17.—Against Government for compensation for land acquired for public purposes. | Ditto ... | The date of deter mining the amount of the compensation. |
| 18.—Like suit for compensation when the acquisition is not completed. | Ditto ... | The date of the refusal to complete. |
| 19.—For compensation for false imprisonment | Ditto ... | When the imprisonment ends. |

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THE SECOND SCHEDULE—*continued.*

FIRST DIVISION : SUITS—continued.

| Description of suit. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| | *Part IV.—One year*—concluded. | |
| 20.—By executors, administrators, or representatives under Act No. XII of 1855 (*to enable the executors, administrators or representatives to sue and be sued for certain wrongs*). | One year ... | The date of the death of the person wronged. |
| 21.—By executors, administrators, or representatives under Act No. XIII of 1855 (*to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong*). | Ditto ... | The date of the death of the person killed. |
| 22.—For compensation for any other injury to the person. | Ditto ... | When the injury is committed. |
| 23.—For compensation for a malicious prosecution. | Ditto ... | When the plaintiff is acquitted, or the prosecution is otherwise terminated. |
| 24.—For compensation for libel ... ... | Ditto ... | When the libel is published. |
| 25.—For compensation for slander... ... | Ditto ... | When the words are spoken, or, if the words are not actionable in themselves, when the special damage complained of results. |
| 26.—For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter. | Ditto ... | When the loss occurs. |
| 27.—For compensation for inducing a person to break a contract with the plaintiff. | Ditto ... | The date of the breach. |
| 28—For compensation for an illegal, irregular, or excessive distress. | Ditto ... | The date of the distress. |
| 29.—For compensation for wrongful seizure of moveable property under legal process | Ditto ... | The date of the seizure. |
| | *Part V.—Two years.* | |
| 30.—Against a carrier for compensation for losing or injuring goods. | Two years ... | When the loss or injury occurs. |
| 31.—Against a carrier for compensation for delay in delivering goods. | Ditto ... | When the goods ought to be delivered. |
| 32.—Against one who, having a right to use property for specific purposes, perverts it to other purposes. | Ditto ... | When the perversion first becomes known to the person injured thereby. |
| 33.—Under Act No. XII of 1855 (*to enable executors, administrators, or representatives to sue and be sued for certain wrongs*), against an executor, administrator, or other representative. | Ditto ... | When the wrong complained of is done. |
| 34.—For the recovery of a wife. ... | Ditto ... | When possession is demanded and refused. |
| 35.—For the restitution of conjugal rights... | Ditto ... | When restitution is demanded and is refused by the husband or wife, being of full age and sound mind. |
| 36.—For compensation for any malfeasance, misfeasance, or nonfeasance, independent of contract, and not herein specially provided for. | Ditto ... | When the malfeasance, misfeasance, or nonfeasance takes place. |

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THE SECOND SCHEDULE—*continued.*

FIRST DIVISION : SUITS—continued.

| Description of suit. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| | *Part VI—Three years.* | |
| 37.—For compensation for obstructing a way or a watercourse. | Three years ... | The date of the obstruction. |
| 38.—For compensation for diverting a watercourse. | Ditto ... | The date of the diversion. |
| 39.—For compensation for trespass upon immoveable property. | Ditto ... | The date of the trespass. |
| 40.—For compensation for infringing copyright or any other exclusive privilege. | Ditto ... | The date of the infringement. |
| 41.—To restrain waste. ... | Ditto ... | When the waste begins. |
| 42.—For compensation for injury caused by an injunction wrongfully obtained. | Ditto ... | When the injunction ceases. |
| 43.—Under the Indian Succession Act, 1865, Section 320 or 321, or under the Probate and Administration Act, 1881, Section 139 or 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets.<br>NOTE.—As amended by Act V of 1881, S. 156. | Ditto ... | The date of the payment or distribution. |
| 44.—By a ward who has attained majority, to set aside a sale by his guardian. | Ditto ... | When the ward attains majority. |
| 45.—To contest an award under any of the following Regulations of the Bengal Code :—<br>VII of 1822 ;<br>IX of 1825 ; and<br>IX of 1833. | Ditto ... | The date of the final award or order in the case. |
| 46.—By a party bound by such award to recover any property conprised therein. | Ditto ... | The date of the final award or order in the case. |
| 47.—By any person bound by an order respecting the possession of property made under the Code of Criminal Procedure, Chapter XL, or the Bombay Mamlatdars' Courts Act, or by any one claiming under such person, to recover the property comprised in such order. | Ditto ... | The date of the final order in the case. |
| 48.—For specific moveable property lost, or acquired by theft, or dishonest misappropriation or conversion, or for compensation for wrongfully taking or detaining the same. | Ditto ... | When the person having the right to the possession of the property first learns in whose possession it is. |
| 49.—For other specific moveable property, or for compensation for wrongfully taking or injuring or wrongfully detaining the same. | Ditto ... | When the property is wrongfully taken or injured, or when the detainer's possession become unlawful. |
| 50.—For the hire of animals, vehicles, boats or household furniture. | Ditto ... | When the hire becomes payable. |
| 51.—For the balance of money advanced in payment of goods to be delivered. | Ditto ... | When the goods ought to be delivered. |
| 52.—For the price of goods sold and delivered, where no fixed period of credit is agreed upon. | Ditto ... | The date of the delivery of the goods. |
| 53.—For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit. | Ditto ... | When the period of credit expires. |
| 54.—For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given. | Ditto ... | When the period of the proposed bill elapses. |

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THE SECOND SCHEDULE—*continued.*

FIRST DIVISION : SUITS—continued.

| Description of suit. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| | *Part VI.—Three years*—contd. | |
| 55.—For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon. | Three years ... | The date of the sale. |
| 56.—For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment. | Ditto ... | When the work is done. |
| 57.—For money payable for money lent ... | Ditto ... | When the loan is made. |
| 58.—Like suit when the lender has given a cheque for the money. | Ditto ... | When the cheque is paid. |
| 59.—For money lent under an agreement that it shall be payable on demand. | Ditto ... | When the loan is made. |
| 60.—For money deposited under an agreement that it shall be payable on demand | Ditto ... | When the demand is made. |
| 61.—For money payable to the plaintiff for money paid for the defendant. | Ditto ... | When the money is paid. |
| 62.—For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use. | Ditto ... | When the money is received |
| 63.—For money payable for interest upon money due from the defendant to the plaintiff. | Ditto ... | When the interest becomes due. |
| 64.—For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them. | Ditto ... | When the accounts are stated in writing, signed by the defendant or his agent duly authorised in this behalf, unless where the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives. |
| 65.—For compensation for breach of a promise to do anything at a specified time or upon the happening of a specified contingency. | Ditto ... | When the time specified arrives or the contingency happens. |
| 66.—On a single bond where a day is specified for payment. | Ditto ... | The day so specified. |
| 67.—On a single bond where no such day is specified. | Ditto ... | The date of executing the bond. |
| 68.—On a bond subject to a condition. | Ditto ... | When the condition is broken. |
| 69.—On a bill of exchange or promissory note payable at a fixed time after date. | Ditto ... | When the bill or note falls due. |
| 70.—On a bill of exchange payable at sight, or after sight, but not at a fixed time. | Ditto ... | When the bill is presented. |
| 71.—On a bill of exchange accepted payable at a particular place. | Ditto ... | When the bill is presented at that place. |
| 72.—On a bill of exchange or promissory note payable at a fixed time after sight or after demand. | Ditto ... | When the fixed time expires. |
| 73.—On a bill of exchange or promissory note payable on demand, and not accompanied by any writing restraining or postponing the right to sue. | Ditto ... | The date of the bill or note. |

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THE SECOND SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

| Description of suit. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| | *Part VI.—Three years*—contd. | |
| 74.—On a promissory note or bond payable by instalments. | Three years ... | The expiration of the first term of payment, as to the part then payable; and, for the other parts, the expiration of the respective terms of payment. |
| 75.—On a promissory note or bond payable by instalments, which provides that, if default be made in payment of one instalment, the whole shall be due. | Ditto ... | When the first default is made, unless where the payee or obligee waives the benefit of the provision, and then when fresh default is made in respect of which there is no such waiver. |
| 76.—On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen. | Ditto ... | The date of the delivery to the payee. |
| 77.—On a dishonoured foreign bill where protest has been made and notice given. | Ditto ... | When the notice is given. |
| 78.—By the payee against the drawer of a bill of exchange which has been dishonoured by non-acceptance. | Ditto ... | The date of the refusal to accept. |
| 79.—By the acceptor of an accommodation-bill against the drawer. | Ditto ... | When the acceptor pays the amount of the bill. |
| 80.—Suit on a bill of exchange, promissory note, or bond not herein expressly provided for. | Ditto ... | When the bill, note, or bond becomes payable. |
| 81.—By a surety against the principal debtor. | Ditto ... | When the surety pays the creditor. |
| 82.—By a surety against a co-surety ... | Ditto ... | When the surety pays anything in excess of his own share. |
| 83.—Upon any other contract to indemnify. | Ditto ... | When the plaintiff is actually damnified. |
| 84.—By an attorney or vakil for his costs of a suit or a particular business, there being no express agreement as to the time when such costs are to be paid. | Ditto ... | The date of the termination of the suit or business, or (where the attorney or vakil properly discontinues the suit or business) the date of such discontinuance. |
| 85.—For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties. | Ditto ... | The close of the year in which the last item admitted or proved is entered in the account; such year to be computed as in the account. |
| 86.—On a policy of insurance when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers. | Ditto ... | When proof of the death or loss is given or received to or by the insurers, whether by or from the plaintiff or any other person. |
| 87.—By the assured to recover premia paid under a policy voidable at the election of the insurers. | Ditto ... | When the insurers elect to avoid the policy. |
| 88.—Against a factor for an account ... | Ditto ... | When the account is, during the continuance of the agency, demanded and refused, or where no such demand is made, when the agency terminates. |

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THE SECOND SCHEDULE—*continued.*

FIRST DIVISION : SUITS—continued.

| Description of suit. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| | *Part VI.—Three years*—contd. | |
| 89.—By a principal against his agent for moveable property received by the latter and not accounted for. | Three years ... | When the account is, during the continuance of the agency, demanded and refused, or where no such demand is made, when the agency terminates. |
| 90.—Other suits by principals against agents for neglect or misconduct. | Ditto ... | When the neglect or misconduct becomes known to the plaintiff. |
| 91.—To cancel or set aside an instrument not otherwise provided for. | Ditto ... | When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him. |
| 92.—To declare the forgery of an instrument issued or registered. | Ditto ... | When the issue or registration becomes known to the plaintiff. |
| 93.—To declare the forgery of an instrument attempted to be enforced against the plaintiff. | Ditto ... | The date of the attempt. |
| 94.—For property which the plaintiff has conveyed while insane. | Ditto ... | When the plaintiff is restored to sanity, and has knowledge of the conveyance. |
| 95.—To set aside a decree obtained by fraud, or for other relief on the ground of fraud. | Ditto ... | When the fraud becomes known to the party wronged. |
| 96.—For relief on the ground of mistake... | Ditto ... | When the mistake becomes known to the plaintiff. |
| 97.—For money paid upon an existing consideration which afterwards fails. | Ditto ... | The date of the failure. |
| 98.—To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust. | Ditto ... | The date of the trustee's death or, if the loss has not then resulted, the date of the loss. |
| 99.—For contribution by a party who has paid the whole amount due under a joint decree, or by a sharer in a joint estate who has paid the whole amount of revenue due from himself and his co-sharers. | Ditto ... | The date of the plaintiff's advance in excess of his own share. |
| 100.—By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution. | Ditto ... | When the right to contribution accrues. |
| 101.—For a seaman's wages ... ... | Ditto ... | The end of the voyage during which the wages are earned. |
| 102.—For wages not otherwise expressly provided for by this schedule. | Ditto ... | When the wages accrue due. |
| 103.—By a Muhammadan for exigible dower (*mu'ajjal*). | Ditto ... | When the dower is demanded and refused, or (where during the continuance of the marriage no such demand has been made) when the marriage is dissolved by death or divorce. |
| 104.—By a Muhammadan for deferred dower (*mu wajjal*). | Ditto .. | When the marriage is dissolved by death or divorce. |
| 105.—By a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee. | Ditto ... | When the mortgagor re-enters on the mortgaged property. |
| 106.—For an account and a share of the profit of a dissolved partnership. | Ditto ... | The date of the dissolution. |

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THE SECOND SCHEDULE—*continued.*

FIRST DIVISION : SUITS—continued.

| Description of suit. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| | *Part VI.—Three years*—contd. | |
| 107.—By the manager of a joint estate of an undivided family for contribution in respect of a payment made by him on account of the estate. | Three years ... | The date of the payment. |
| 108.—By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease. | Ditto ... | When the trees are cut down. |
| 109.—For the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant. | Ditto ... | When the profits are received, or, where the plaintiff has been dispossessed by a decree afterwards set aside on appeal, when he recovers possession. |
| 110.—For arrears of rent. ... ... | Ditto ... | When the arrears become due. |
| 111.—By a vendor of immoveable property to enforce his lien for unpaid purchase money. | Ditto ... | The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance. |
| 112.—For a call by a company registered under any Statute or Act. | Ditto ... | When the call is payable. |
| 113.—For specific performance of a contract. | Ditto ... | The date fixed for the performance, or if no such date is fixed, when the plaintiff has notice that performance is refused. |
| 114.—For the rescission of a contract ... | Ditto ... | When the facts entitling the plaintiff to have the contract rescinded first become known to him. |
| 115.—For compensation for the breach of any contract, express or implied, not in writing registered, and not herein specially provided for. | Ditto ... | When the contract is broken, or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs, or (where the breach is continuing) when it ceases. |
| | *Part VII.—Six years.* | |
| 116.—For compensation for the breach of a contract in writing registered. | Six years ... | When the period of limitation would begin to run against a suit brought on a similar contract not registered. |
| 117.—Upon a foreign judgment as defined in the Code of Civil Procedure. | Ditto ... | The date of the judgment. |
| 118.—To obtain a declaration that an alleged adoption is invalid, or never in fact took place. | Ditto ... | When the alleged adoption becomes known to the plaintiff. |
| 119.—To obtain a declaration that an adoption is valid. | Ditto ... | When the rights of the adopted son as such are interfered with. |
| 120.—Suit for which no period of limitation is provided elsewhere in this schedule. | Ditto ... | When the right to sue accrues. |

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THE SECOND SCHEDULE—*continued.*

FIRST DIVISION : SUITS—continued.

| Description of suit. | Period of limitation. | Time from which period begins to run |
|---|---|---|
| | *Part VIII.—Twelve years.* | |
| 121.—To avoid incumbrances or under-tenures in an entire estate sold for arrears of Government revenue, or in a *patni taluq* or other saleable tenure sold for arrears of rent. | Twelve years ... | When the sale becomes final and conclusive. |
| 122.—Upon a judgment obtained in British India, or a recognizance. | Ditto ... | The date of the judgment or recognizance. |
| 123.—For a legacy or for a share of a residue bequeathed by a testator, or for a distributive share of the property of an intestate. | Ditto ... | When the legacy or share becomes payable or deliverable. |
| 124.—For possession of an hereditary office. | Ditto ... | When the defendant takes possession of the office adversely to the plaintiff. *Explanation.*—An hereditary office is possessed when the profits thereof are usually received, or (if there are no profits) when the duties thereof are usually performed. |
| 125.—Suit during the life of a Hindu or Muhammadan female by a Hindu or Muhammadan who, if the female died at the date of instituting the suit, would be entitled to the possession of land, to have an alienation of such land made by the female declared to be void except for her life or until her remarriage. | Ditto ... | The date of the alienation. |
| 126.—By a Hindu governed by the law of the Mitakshara to set aside his father's alienation of ancestral property. | Ditto ... | When the alienee takes possession of the property. |
| 127.—By a person excluded from joint-family property to enforce a right to share therein. | Ditto ... | When the exclusion becomes known to the plaintiff. |
| 128.—By a Hindu for arrears of maintenance. | Ditto ... | When the arrears are payable. |
| 129.—By a Hindu for a declaration of his right to maintenance. | Ditto ... | When the right is denied. |
| 130.—For the resumption or assessment of rent-free land. | Ditto ... | When the right to resume or assess the land first accrues. |
| 131.—To establish a periodically recurring right. | Ditto ... | When the plaintiff is first refused the enjoyment of the right. |
| 132.—To enforce payment of money charged upon immoveable property. *Explanation.*—The allowance and fees respectively called *malikana* and *haqqs* shall, for the purpose of this clause, be deemed to be money charged upon immoveable property. | Ditto ... | When the money sued for becomes due. |

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THE SECOND SCHEDULE—*continued.*

FIRST DIVISION : SUITS—continued.

| Description of suit. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| | *Part VIII.—Twelve years—* continued. | |
| 133.—To recover moveable property conveyed or bequeathed in trust, deposited or pawned, and afterwards bought from the trustee, depositary, or pawnee for a valuable consideration. | Twelve years ... | The date of the purchas . |
| 134.—To recover possession of immoveable property conveyed or bequeathed in trust or mortgaged, and afterwards purchased from the trustee or mortgagee for a valuable consideration. | Ditto ... | Ditto. |
| 135.—Suit instituted in a Court not established by Royal Charter by a mortgagee for possession of immoveable property mortgaged. | Ditto ... | When the mortgagor's right to possession determines. |
| 136.—By a purchaser at a private sale for possession of immoveable property sold, when the vendor was out of possession at the date of the sale. | Ditto ... | When the vendor is first entitled to possession. |
| 137.—Like suit by a purchaser at a sale in execution of a decree, when the judgment-debtor was out of possession at the date of the sale. | Ditto ... | When the judgment-debtor is first entitled to possession. |
| 138.—By a purchaser of land at a sale in execution of a decree, for possession of the purchased land, when the judgment-debtor was in possession at the date of the sale. | Ditto ... | The date of the sale. |
| 139.—By a landlord to recover possession from a tenant. | Ditto ... | When the tenancy is determined. |
| 140.—By a remainderman, a reversioner (other than a landlord), or a devisee, for possession of immoveable property. | Ditto ... | When his estate falls into possession. |
| 141.—Like suit by a Hindu or Muhammadan entitled to the possession of immoveable property on the death of a Hindu or Muhammadan female. | Ditto ... | When the female dies. |
| 142.—For possession of immoveable property when the plaintiff, while in possession of the property, has been dispossessed or has discontinued the possession. | Ditto ... | The date of the dispossession or discontinuance. |
| 143.—Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition. | Ditto . | When the forfeiture is incurred or the condition is broken. |
| 144.—For possession of immoveable property or any interest therein not hereby otherwise specially provided for. | Ditto ... | When the possession of the defendant becomes adverse to the plaintiff. |
| | *Part IX.—Thirty years.* | |
| 145.—Against a depositary or pawnee to recover moveable property deposited or pawned. | Thirty years ... | The date of the deposit or pawn. |
| 146.—Before a Court established by Royal Charter in the exercise of its ordinary original civil jurisdiction by a mortgagee to recover from the mortgagor the possession of immoveable property mortgaged. | Ditto ... | When any part of the principal or interest was last paid on account of the mortgage debt. |

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THE SECOND SCHEDULE—*continued.*

FIRST DIVISION: SUITS—continued.

| Description of suit. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| | *Part X.—Sixty years.* | |
| 147.—By a mortgagee for foreclosure or sale. | Sixty years ... | When the money secured by the mortgage becomes due. |
| 148.—Against a mortgagee to redeem or to recover possession of immoveable property mortgaged. | Ditto ... | When the right to redeem or to recover possession accrues. Provided that all claims to redeem, arising under instruments of mortgage of immoveable property situate in British Burma, which have been executed before the first day of May 1863, shall be governed by the rules of limitation in force in that province immediately before the same day. |
| 149.—Any suit by or on behalf of the Secretary of State for India in Council. | Ditto ... | When the period of limitation would begin to run under this Act against a like suit by a private person. |

SECOND DIVISION: APPEALS.

| Description of appeal. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| 150.—Under the Code of Criminal Procedure from a sentence of death passed by a Sessions Judge. | Seven days ... | The date of the sentence. |
| 151.—From a decree or order of any of the High Courts of Judicature at Fort William, Madras, and Bombay, or the Chief Court of the Punjab, in the exercise of its original jurisdiction.<br>NOTE.—As amended by Act XVII of 1877, S. 18. | Twenty days ... | The date of the decree or order. |
| 152.—Under the Code of Civil Procedure to the Court of a District Judge. | Thirty days ... | The date of the decree or order appealed against. |
| 153.—Under the same Code, Section 601, to a High Court. | Ditto ... | The date of the order refusing the certificate. |
| 154.—Under the Code of Criminal Procedure to any Court other than a High Court. | Ditto ... | The date of the sentence or order appealed against |
| 155.—Under the same Code to a High Court except in the cases provided for by No. 150 and No. 157. | Sixty days ... | Ditto. |
| 156.—Under the Code of Civil Procedure to a High Court except in the cases provided for by No. 151 and No. 153. | Ninety days ... | The date of the decree or order appealed against. |
| 157.—Under the Code of Criminal Procedure from a judgment of acquittal. | Six months ... | The date of the judgment appealed against. |

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THE SECOND SCHEDULE—*continued.*

THIRD DIVISION : APPLICATIONS.

| Description of application. | Period of limitation. | Time from which period begin to run. |
|---|---|---|
| 158.—Under the Code of Civil Procedure to set aside an award. | Ten days ... | When the award is submitted to the Court. |
| 159.—For leave to appear and defend a suit under Chapter XXXIX of the Code of Civil Procedure. | Ditto ... | When the summons is served. |
| 160.—For an order under Section 629 of the same Code restoring to the file a rejected application for review. | Fifteen days ... | When the application for review is rejected. |
| 160.A.—For a review of judgment by a Provincial Court of Small Causes or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction.<br>NOTE.—Art. 16.A, has been added by Act IX of 1887, S. 36. See note to Art. 173A. | Ditto ... | The date of the decree or order. |
| 162.—For a review of judgment by any of the High Courts of Judicature at Fort William, Madras, and Bombay, or the Chief Court of the Punjab, in the exercise of its original jurisdiction.<br>NOTE.—As amended by Act XVII of 1877, S. 18. | Twenty days ... | The date of the decree or order. |
| 163.—By a plaintiff for an order to set aside a dismissal by default. | Thirty days ... | The date of the dismissal. |
| 164.—By a defendant for an order to set aside a judgment *ex parte*. | Ditto ... | The date of executing any process for enforcing the judgment. |
| 165.—Under the Code of Civil Procedure, by a person dispossessed of immoveable property, and disputing the right of the decreeholder or purchaser at a sale in execution of a decree to be put into possession. | Ditto ... | The date of the dispossession. |
| 166.—To set aside a sale in execution of a decree, on the ground of irregularity in publishing or conducting the sale, or on the ground that the decreeholder has purchased without the permission of the Court.<br>NOTE.—As amended by Act XII of 1879. | Ditto ... | The date of the sale. |
| 167.—Complaining of resistance or obstruction to delivery of possession of immoveable property decreed or sold in execution of a decree, or of dispossession in the delivery of possession to the decreeholder or the purchaser of such property. | Ditto ... | The date of the resistance, obstruction, or dispossession. |
| 168.—For re-admission of an appeal dismissed for want of prosecution. | Ditto ... | The date of the dismissal. |
| 169.—For a re-hearing of an appeal heard *ex-parte* in the absence of the respondent. | Ditto ... | The date of the decree in appeal. |
| 170.—For leave to appeal as a pauper ... | Ditto ... | The date of the decree appealed against. |
| 171.—Under Section 371 of the Code of Civil Procedure, or under that section and Section 582 of the same Code, for an order to set aside an order for abatement or dismissal.<br>NOTE.—Art. 171 is as enacted by Act VII of 1888. | Sixty days ... | The date of the order for abatement or dismissal. |

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THE SECOND SCHEDULE—*continued.*

THIRD DIVISION: APPLICATIONS—continued.

| Description of application. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| 172.—By a purchaser at an execution sale to set aside the sale on the ground that the person whose interest in the property purported to be sold had no saleable interest therein. | Sixty days ... | The date of the sale. |
| 173.—For a review of judgment, except in the cases provided for by No. 160 A and No. 162.<br><br>NOTE.—Art. 173 is as amended by Act IX of 1887, Section 36. | Ninety days ... | The date of the decree or order. |
| 173A.—For the issue of a notice under Section 258 of the same Code to show cause why the payment or adjustment therein mentioned should not be recorded as certified.<br><br>NOTE.—As amended by Act XII of 1879 and Act VII of 1888. Before the enactment of the latter Act, the above article was No. 161. | Ditto | When the payment or adjustment is made. |
| 174.—By a creditor of an insolvent judgment-debtor under Section 353 of the Code of Civil Procedure. | Ditto ... | The date of the publication of the schedule. |
| 175.—For payment of the amount of a decree by instalments. | Six months ... | The date of the decree. |
| 175A.—Under Section 365 of the Code of Civil Procedure by the legal representative of a deceased plaintiff, or under that section and Section 582 of the same Code by the legal representative of a deceased plaintiff-appellant or defendant-appellant. | Ditto | The date of the death of the deceased plaintiff or of the deceased plaintiff-appellant or defendant-appellant. |
| 175B.—Under Section 366 of the Code of Civil Procedure by a defendant, or under that section and Section 582 of the same Code by a plaintiff-respondent or defendant-respondent. | Ditto | The date of the death of the deceased plaintiff or of the deceased defendant-appellant or plaintiff-appellant. |
| 175C.—Under Section 368 of the Code of Civil Procedure to have the legal representative of a deceased defendant made a defendant, or under that section and Section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a plaintiff-respondent or defendant-respondent.<br><br>NOTE.—Arts. 175 A, 175 B, and 175 C, have been added by Act VII of 1888. | Ditto | The date of the death of the deceased defendant or of the deceased plaintiff-respondent or defendant-respondent. |
| 176.—Under the Code of Civil Procedure, Section 516 or 525, that an award be filed in Court | Ditto ... | The date of the award. |
| 177.—For the admission of an appeal to Her Majesty in Council. | Ditto ... | The date of the decree appealed against. |
| 178.—Applications for which no period of limitation is provided elsewhere in this schedule, or by the Code of Civil Procedure, Section 230. | Three years ... | When the right to apply accrues. |

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THE SECOND SCHEDULE—*continued.*

THIRD DIVISION: APPLICATIONS—continued.

| Description of application. | Period of limitation. | Time from which period begins to run. |
|---|---|---|
| 179.—For the execution of a decree or order of any Civil Court not provided for by No. 180 or by the Code of Civil Procedure, Section 230. | Three years; or where a certified copy of the decree or order has been registered, six years. | 1. The date of the decree or order, or<br>2. (where there has been an appeal) the date of the final decree or order of the Appellate Court, or<br>3. (where there has been a review of judgment) the date of the decision passed on the review, or<br>4. (where the application next hereinafter mentioned has been made) the date of applying in accordance with law to the proper Court for execution, or to take some step in aid of execution, of the decree or order, or<br>5. (where the notice next hereinafter mentioned has been issued) the date of issuing a notice under the Code of Civil Procedure, Section 248, or<br>6. (where the application is to enforce any payment which the decree or order directs to be made at a certain date) such date.*<br>*Explanation I.*—Where the decree or order has been passed severally in favour of more persons than one, distinguishing portions of the subject-matter as payable or deliverable to each, the application mentioned in clause 4 of this Number shall take effect in favour only of such of the said persons or their representatives as it may be made by. But when the decree or order has been passed jointly in favour of more persons than one, such application, if made by any one or more of them, or by his or their representatives, shall take effect in favour of them all.<br>Where the decree or order has been passed severally against more persons than one, distinguishing portions of the subject-matter as payable or deliverable by each, the application shall take effect against only such of the said |

* As amended by Act XII of 1879.

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THE SECOND SCHEDULE—*continued*.

THIRD DIVISION : APPLICATIONS—continued.

| Description of application. | Period of limitation. | Time from which period beigns to run. |
|---|---|---|
| | | persons or their representatives as it may be made against. But where the decree or order has been passed jointly against more persons than one, the application, if made against any one or more of them, or against his or their representatives, shall take effect against them all. *Explanation II.*— "Proper Court" means the Court whose duty it is (whether under Section 226 or 227 of the Code of Civil Procedure or otherwise) to execute the decree or order. |
| 180.—To enforce a judgment, decree, or order of any Court established by Royal Charter in the exercise of its ordinary orginal civil jurisdiction, or an order of Her Majesty in Council. | Twelve years ... | When a present right to enforce the judgment, decree, or order accrues to some person capable of releasing the right : Provided that when the judgment, decree, or order has been revived, or some part of the principal money secured thereby, or some interest on such money has been paid, or some acknowledgment of the right thereto has been given in writing, signed by the person liable to pay such principal or interest, or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment, or the latest of such revivors, payments or acknowledgments, as the case may be. |

## ACT No I of 1878.

(*Passed on the 7th January* 1878).

An Act to amend the law relating to Opium.

Preamble. Whereas it is expedient to amend the law relating to opium ; It is hereby enacted as follows:—

Short title. 1. This Act may be called "The Opium Act, 1878."

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It shall extend to such local areas as the Governor-General in Council may, by notification in the *Gazette of India*, from time to time direct;

Local extent.

And it shall come into force in each of such areas on such day as the Governor-General in Council in like manner directs in this behalf.

Commencement.

NOTE.—In exercise of the powers conferred by the Opium Act, 1878, the Governor-General in Council directs that the said Act shall come into force in the territories administered by the Lieutenant-Governor of the Punjab on the 1st day of April 1880.—(*Government of India Notification No 6, dated 3rd January* 1880).

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule:

Repeal of enactments.

And in Acts No. XI of 1849, No. XXI of 1856, and No. X of 1871, and in Bengal Act No. II of 1876, the words "intoxicating drugs" (wherever they occur) shall include opium.

Amendment of Acts.

The reference made to Bombay Regulations XXI of 1827 and XX of 1830 in Act No. VII of 1836, shall be read as if made to the corresponding sections of this Act.

Amendment of Act VII of 1836, S. 1.

3. In this Act, unless there be something repugnant in the subject or context—

Interpretation-clause.

"Opium" includes also poppy-heads, preparations or admixtures of opium, and intoxicating drugs prepared from the poppy:

"Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a Magistrate of the first class, or (when specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class:

"Import" means to bring into the territories administered by any Local Government from sea, or from foreign territory, or from a territory administered by any other Local Government:

"Export" means to take out of the territories administered by any Local Government to sea, or to any foreign territory, or to any territory administered by another Local Government:

"Transport" means to remove from one place to another within the territories administered by the same Local Government.

4. Except as permitted by this Act, or by any other enactment relating to opium for the time being in force, or by rules framed under this Act or under any such enactment, no one shall—

Prohibition of poppy-cultivation and possession, &c., of opium.

(*a*) cultivate the poppy;

(*b*) manufacture opium;

(*c*) possess opium;

(*d*) transport opium;

(*e*) import or export opium; or

(*f*) sell opium.

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Power to make rules to permit such matters.

5. The Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the Local Gazette, make rules consistent with this Act, to permit absolutely or subject to the payment of duty or to any other conditions, and to regulate within the whole or any specified part of the territories administered by such Government, all or any of the following matters :—

(*a*) the cultivation of the poppy ;
(*b*) the manufacture of opium ;
(*c*) the possession of opium ;
(*d*) the transport of opium ;
(*e*) the importation or exportation of opium ; and
(*f*) the sale of opium, and the form of duties leviable on the sale of opium by retail :

Provided that no duty shall be levied under any such rule on any opium imported, and on which a duty is imposed by or under the law relating to sea-customs for the time being in force or under section six.

NOTE.—For Rules made under this section, see Note (*a*) at end of Act.

Duty on opium imported by land.

6. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, impose such duty as he thinks fit on opium or on any kind of opium imported by land into British India or into any specified part thereof, and may alter or abolish any duty so imposed.

NOTE.—In exercise of the power conferred by Section 6 of the Opium Act, 1878, and in supersession of the Notification No. 1178, dated the 1st June, 1885, the Governor-General in Council directs that duty at the rate of Rs. 175 shall be levied on each chest of opium of 140¼ lbs. avoirdupois net weight imported into the Punjab.—(*Government of India Notification No.* 3049, *dated 8th June* 1888, *Gazette of India of 9th idem, Part I, p.* 269).

Warehousing opium.

7. The Governor-General in Council may, by order notified in the *Gazette of India*,

(*a*) authorize any Local Government to establish warehouses for opium legally imported into, or intended to be exported from, the territories administered by such Local Government, and

(*b*) cancel any such order.

So long as such order remains in force, the Local Government may, by notification published in the official Gazette,

(*c*) declare any place to be a warehouse for all or any opium legally imported, whether before or after the payment of any duty leviable thereon, into the territories administered by such Government, or into any specified part thereof, or intended to be exported thence, and

(*d*) cancel any such declaration.

An order under clause (*b*) shall cancel all previous declarations under clause (*c*) of this section relating to places in the territories to which such order refers.

So long as such declaration remains in force, the owner of all such opium shall be bound to deposit it in such warehouse.

Power to make rules relating to warehouses.

8. The Local Government, with the previous sanction of the Governor-General in Council, may, from time to time, by notification in the Local Gazette, make rules consistent with this Act to regulate the safe custody of opium warehoused under section seven; the levy of fees for such warehousing ;

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the removal of such opium for sale or exportation; and the manner in which it shall be disposed of, if any duty or fees leviable on it be not paid within twelve months from the date of warehousing the same.

Penalty for illegal cultivation of poppy, &c.

9. Any person who, in contravention of this Act, or of rules made and notified under section five or section eight,—

(*a*) cultivates the poppy, or
(*b*) manufactures opium, or
(*c*) possesses opium, or
(*d*) transports opium, or
(*e*) imports or exports opium, or
(*f*) sells opium, or
(*g*) omits to warehouse opium or removes or does any act in respect of warehoused opium,

and any person who otherwise contravenes any such rule,

shall, on conviction before a Magistrate, be punished for each such offence with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both;

and, where a fine is imposed, the convicting Magistrate shall direct the offender to be imprisoned in default of payment of the fine for a term which may extend to six months, and such imprisonment shall be in excess of any other imprisonment to which he may have been sentenced.

Presumption in prosecutions under section nine.

10. In prosecutions under section nine, it shall be presumed, until the contrary is proved, that all opium for which the accused person is unable to account satisfactorily is opium in respect of which he has committed an offence under this Act.

Confiscation of opium.

11. In any case in which an offence under section nine has been committed—

(*a*) the poppy so cultivated;

(*b*) the opium in respect of which any offence under the same section has been committed;

(*c*) where, in the case of an offence under clause (*d*) or (*e*) of the same section, the offender is transporting, importing, or exporting any opium exceeding the quantity (if any) which he is permitted to transport, import, or export, as the case may be, the whole of the opium which he is transporting importing, or exporting;

(*d*) where, in the case of an offence under clause (*f*) of the same section, the offender has in his possession any opium other than the opium in respect of which the offence has been committed, the whole of such other opium,

shall be liable to confiscation.

The vessels, packages and coverings in which any opium liable to confiscation under this section is found, and the other contents (if any) of the vessel or package in which such opium may be concealed, and the animals and conveyances used in carrying it, shall likewise be liable to confiscation.

Order of confiscation by whom to be made.

12. When the offender is convicted, or when the person charged with an offence in respect of any opium is acquitted, but the Magistrate decides that the opium is liable to confiscation, such confiscation may be ordered by the Magistrate.

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Whenever confiscation is authorised by this Act, the officer ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence against this Act has been committed, but the offender is not known or cannot be found, or when opium not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector of the district or Deputy Commissioner, or by any other officer authorized by the Local Government in this behalf, either personally or in right of his office, who may order such confiscation : Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated, or without hearing the persons (if any) claiming any right thereto, and the evidence (if any) which they produce in support of their claims.

Power to make rules, regarding disposal of things confiscated and rewards.

13. The Local Government may, with the previous sanction of the Governor-General in Council, from time to time, by notification in the Local Gazette, make rules consistent with this Act to regulate—

(*a*) the disposal of all things confiscated under this Act ; and

(*b*) the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act.

NOTE.—For Rules made under this section, see Note (*a*) at end of Act.

Power to enter, arrest, and seize, on information that opium is unlawfully kept in any enclosed place.

14. Any officer of any of the departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, who may in right of his office be authorized by the Local Government in this behalf, and who has reason to believe, from personal knowledge or from information given by any person and taken down in writing, that opium liable to confiscation under this Act is manufactured, kept, or concealed in any building, vessel, or enclosed place, may, between sunrise and sunset,

(*a*) enter into any such building, vessel, or place ;

(*b*) in case of resistance, break open any door and remove any other obstacle to such entry ;

(*c*) seize such opium and all materials used in the manufacture thereof, and any other thing which he has reason to believe to be liable to confiscation under section eleven or any other law for the time being in force relating to opium, and

(*d*) detain and search, and, if he think proper, arrest, any person whom he has reason to believe to be guilty of any offence relating to such opium under this or any other law for the time being in force.

NOTE.—Under Section 14 of Act I of 1878 (The Opium Act), the Hon'ble the Lieutenant-Governor is pleased to confer upon all excise officers above the rank of a jamadar of peons, and upon all police officers above the rank of sergeant, the powers with respect to the search for, and seizure of opium and other things liable to confiscation, and the detention, search, and arrest of any person reasonably believed to be guilty of any offence relating to such opium, described in the above mentioned section.—(*Punjab Government Notification No.* 1009, *dated 16th September* 1881, *Punjab Gazette of 22nd idem*).

Power to seize opium in open places.

15. Any officer of any of the said departments may

(*a*) seize, in any open place or in transit, any opium or other thing which he has reason to believe to be liable to confiscation under section eleven or any other law for the time being in force relating to opium,

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(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has opium in his possession, arrest him and any other persons in his company.

Power to detain, search, and arrest.

16. All searches under section fourteen or section fifteen shall be made in accordance with the provisions of the Code of Criminal Procedure.

Searches how made.

17. The officers of the several departments mentioned in section fourteen shall, upon notice given or request made, be legally bound to assist each other in carrying out the provisions of this Act.

Officers to assist each other.

18. Any officer of any of the said departments who, without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel, or place, or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for any opium or other thing liable to confiscation under this Act, or vexatiously and unnecessarily detains, searches or arrests any person, shall for every such offence be punished with fine not exceeding five hundred rupees.

Vexatious entries, searches, seizures, and arrests.

19. The Collector of the District, Deputy Commissioner, or other officer authorized by the Local Government in this behalf, either personally or in right of his office, or a Magistrate, may issue his warrant for the arrest of any person whom he has reason to believe to have committed an offence relating to opium, or for the search, whether by day or night, of any building or vessel or place in which he has reason to believe opium liable to confiscation to be kept or concealed.

Issue of warrants.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure.

20. Every person arrested, and thing seized, under section fourteen or section fifteen, shall be forwarded without delay to the officer in charge of the nearest police-station; and every person arrested and thing seized under section nineteen shall be forwarded without delay to the officer by whom the warrant was issued.

Disposal of person arrested or thing seized.

Every officer to whom any person or thing is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal according to law of such person or thing.

21. Whenever any officer makes any arrest or seizure under this Act, he shall within forty-eight hours next after such arrest or seizure make a full report of all the particulars of such arrest or seizure to his immediate official superior.

Report of arrests and seizures.

22. In the case of illegal cultivation of the poppy, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an officer superior in rank to a peon or constable, who may, in right of his office, be authorized by the Local Government in this behalf; and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested unless within a reasonable time he fails to give such bail:

Procedure in case of illegal poppy-cultivation.

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Provided that, wherever Act No. XIII of 1857 (*An Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal*), or any part thereof is in force, nothing in this section shall apply to such cultivation.

Recovery of arrears of fees, duties, &c.

23. Any arrear of any fee or duty imposed under this Act or any rule made hereunder, and any arrear due from any farmer of opium-revenue, may be recovered from the person primarily liable to pay the same to the Government or from his surety (if any) as if it were an arrear of land revenue.

Farmer may apply to Collector or other officer to recover amount due to him by licensee.

24. When any amount is due to a farmer of opium-revenue from his licensee, in respect of a license, such farmer may make an application to the Collector of the District, Deputy Commissioner, or other officer authorized by the Local Government in this behalf, praying such officer to recover such amount on behalf of the applicant; and on receiving such application, such Collector, Deputy Commissioner, or other officer may in his discretion recover such amount as if it were an arrear of land-revenue, and shall pay any amount so recovered to the applicant:

Provided that the execution of any process issued by such Collector, Deputy Collector, or other officer for the recovery of such amount, shall be stayed if the licensee institutes a suit in the Civil Court to try the demand of the farmer, and furnishes security to the satisfaction of such officer for the payment of the amount which such Court may adjudge to be due from him to such farmer:

Provided also that nothing contained in this section or done thereunder shall affect the right of any farmer of opium-revenue to recover by suit in the Civil Court or otherwise any amount due to him from such licensee.

Recovery of penalties due under bond.

25. When any person in compliance with any rule made hereunder gives a bond for the performance of any duty or act, such duty or act shall be deemed to be a public duty, or an act in which the public are interested, as the case may be, within the meaning of the Indian Contract Act, 1872, Section 74, and upon breach of the condition of such bond by him, the whole sum named therein as the amount to be paid in case of breach may be recovered from him as if it were an arrear of land-revenue.

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SCHEDULE.

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

| Number and year. | Subject. | Extent of repeal. |
|---|---|---|
| Act XI of 1849 ... | Abkari Revenue of Calcutta ... | In Section 5, the word "opium."<br>In Section 6, the word "opium" and the last thirty-one words.<br>In Section 15, from and including the words "except in the case," to the end of the section.<br>In Section 33, from and including the words "except opium" down to and including the words "each seer;" and the words "or in the case of opium as aforesaid, a reward of one rupee eight annas for each seer." |
| Act III of 1852 ... | Spirituous liquors, Bombay ... | Section 10, so far as it relates to opium. |
| Act XXI of 1856... | Bengal Abkari Act ... ... | In Section 28 the word "opium." |

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SCHEDULE—(contd.).

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL—(contd.).

| Number and year. | Subject. | Extent of repeal. |
|---|---|---|
| | | Sections 34, 51, 52, 53, and 87.<br>In Section 35, the words "or opium."<br>In Section 49, the words "except opium."<br>Section 59, so far as it relates to opium.<br>In Section 75, the words "except opium" and from and including the words "opium seized," down to the end.<br>In Section 76, from and including the words "except opium," down to and including the words "each seer;" and from and including the words "or in" down to and including the words "each seer."<br>In paragraph 8 of Section 90, the words "and opium." |
| Act XIII of 1857... | Cultivation of the poppy and manufacture of opium. | Section 2. |
| Act X of 1871 ... | The Northern India Excise Act. | In paragraph 5 of Section 3, the word "opium."<br>Sections 18, 65, 66, 67 and 87.<br>In Section 19, the words "or opium."<br>Section 46, so far as it relates to opium.<br>In Section 46, paragraph 3, from and including the words "as well as", down to and including the words "dealings in opium."<br>In Section 63, the words "except opium."<br>In Section 78 the words "except opium," and paragraph 2.<br>In Section 79, from and including the words "except opium," down to and including the words "each seer," and from and including the words "or in" down to and including the words "each seer." |
| Act IV of 1872. ... | The Punjab Laws Act ... ... | Section 49. |
| Act XXVI of 1872 | Punjab Opium Law Amendment. | The whole Act. |
| Act VI of 1873 | Transhipment of goods ... ... | Section 7. |
| Act XVI of 1875. | The Indian Tariff Act ... ... | Section 9. |
| Act XXIII of 1876. | To amend the law relating to Opium. | The whole Act. |
| Act VI of 1877. | For postponing the day on which the Opium Act, 1876, is to come into force. | The whole Act. |

*Acts of the Lieutenant-Governor of Bengal in Council.*

| Number and year. | Subject. | Extent of repeal. |
|---|---|---|
| Act II of 1876. | To amend Act XI of 1849, Act XXI of 1856, and Act IV (B.C.) of 1866. | In Section 3, in the section substituted for Section 33 of Act XI of 1849, the words "except opium," and from and including the words "confiscated opium" down to and including the words "general order."<br>In Section 3, in the section substituted for Section 34 of Act XI of 1849, the words "except in the case of opium," and from and including the words "and in the case of opium" down to and including the words "similarly distributed" |

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SCHEDULE—*continued.*

*Acts of the Lieutenant-Governor of Bengal in Council—(concld.).*

| Number and year. | Subject. | Extent of repeal. |
|---|---|---|
| | | In Section 10, in the section substituted for Section 75 of Act XXI of 1856, the words "except opium," and from and including the words "confiscated opium," down to and including the words "general order."<br>In Section 10, in the section substituted for Section 76 of Act XXI of 1856, the words "except in the case of opium," and from and including the words "and in the case of opium" down to and including the words "similarly distributed." |

*Bombay Regulations.*

| Number and year. | Subject. | Extent of repeal. |
|---|---|---|
| Bombay Regulation XXI of 1827. | Duty on opium ... ... | The preamble, from and including the words "with the combined," down to and including the words "the prohibited." |
| Bombay Regulation XX of 1830. | Malwa opium ... ... ... | Chapters I, II, III and IV.<br>So much as has not been repealed. |

NOTES.—(*a*).—In exercise of the powers conferred by Sections 5 and 13 of the Opium Act, 1878, the Lieutenant-Governor of the Punjab has made the following Rules, which have received the sanction of the Governor-General in Council, and are now published as required by the Act. Excepting as in any case expressly limited, these Rules apply to all the territories in British India administered by the Lieutenant-Governor of the Punjab, and will come into force on the 1st April 1880, the date of the extension of the Act to the Punjab :—

*Interpretation clause.*

1. In these Rules—

(1) "Deputy Commissioner" means any revenue officer in independent charge of a district or division of a district.

(2) "Officer in charge of the excise revenue" means any subordinate officer of his staff whom the Deputy Commissioner may place in executive charge of the excise administration of the whole or part of a district. In Kulu, the Assistant Commissioner of Kulu for the time being shall be considered the officer in charge of the excise revenue of the district for the purpose of granting passes for transport from the area under his jurisdiction.

(3) "Opium" means the inspissated juice of the poppy.

(4) "Intoxicating drugs" includes madak and chandu, and every preparation and admixture thereof, and kafa, and all other intoxicating or narcotic preparations of opium and of the poppy, but does not include poppy-heads.

(5) "Poppy-heads" or "post" means the capsules of the poppy plants.

(6) "Farmer" means a person who has obtained from the Deputy Commissioner, under Rule 51 or Rule 56, a farm of the duties leviable on the retail vend of opium, of all or any "intoxicating drugs," or of "poppy-heads."

(7) "Licensed vendor" means a person who has obtained a license for retail vend under Rules 43 to 49, 52 or 56.

(8) "Medical practitioner" means a medical practitioner to whom a license has been granted by a Deputy Commissioner under Rule 23.

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(9) The words "import", "export", and "transport" have the respective meanings assigned to them in the Opium Act, 1878.

(10) "India" means the country included within the British frontier lines on the extreme west and north of the Presidency of Fort William, and within the British frontier line on the extreme east of the Presidency of Fort William and of British Burma.

*Cultivation.*

2. The cultivation of the poppy is permitted in all parts of the Punjab, except in the districts of the Delhi and Hissar Divisions, where it is prohibited.

3. A duty of two rupees will be levied on every acre of poppy cultivation. The minimum charge will be for a quarter of an acre; any area under a quarter of an acre will be charged as a quarter of an acre.

4. The measurements will be effected by the Patwaris, under the supervision of the Tahsildars.

5. Any person desiring to grow poppy must, before the first of November of each year, inform the Patwari of his village of the area he intends to cultivate, and the Patwari shall enter the information in a register to be kept by him for the purpose. If a cultivator, after intimating his intention under this rule, abandons his intention, the Patwari shall record the fact in his register.

6. On the 1st January of each year, the Patwari shall furnish an abstract of the area under poppy cultivation to the Tahsildar, who shall keep up a register embodying these abstracts, and the Tashildar shall then, or at any other time before removal of the crop, personally or through the medium of any revenue official not below the rank of Assistant Kanungo, test the measurement of the poppy cultivation recorded by the Patwari.

7. After the measurements have been tested, the Patwari shall inform the Lambardar of each village of the amount payable on account of poppy acreage duty, and the persons who are to pay it, and the Lambardar shall be responsible for the collection of the same and its payment to Government along with the instalments of Government land revenue. No percentage shall be claimable by Lambardars on account of such collections.

8. Immediately after he has prepared and communicated to the Lambardar his statement of demand, the Patwari shall furnish to each poppy cultivator a memorandum of the recorded area of his crop (hereinafter called the cultivator's license).

9. The cultivator's license shall entitle him to keep the produce from the time of the maturity of the crop until the time for the renewal of the license, not later than the 1st of November, or, subject to the rules as to quantities, hereinafter provided, to sell the standing crop to any person holding a license under Rule 18, or to sell the produce to a farmer of the duties leviable on the retail vend of opium, or to any person holding a license under Rules 37 to 42.

10. When selling the standing crop, the cultivator shall not sell less than one acre at a time to one purchaser, unless his entire crop is less than one acre, in which case he may sell his entire crop. When selling opium, the cultivator shall not sell except in such quantities as are provided hereinafter for wholesale dealing.

11. The holder of a cultivator's license shall enter, or cause to be entered thereon, the actual outturn of opium and particulars of all sales thereof, and every sale shall be attested by the signature of the purchaser.

12. The Patwari shall, at intervals, examine and check these entries on the cultivators licenses.

13. The licenses granted to cultivators shall be returned to the Patwari at the time of preparation of the next demand statement, and the Patwari shall forward them to the Tahsildar. Should any of the produce covered by the old licenses remain undisposed of, the amount of the balance will be entered in the new license, and shown as opium to be disposed of in addition to the current year's outturn.

14. Should a licensed cultivator, who does not wish to continue the cultivation, possess any balance of opium undisposed of, the old license may be renewed for a stated period to allow of the sale of the opium to a licensed purchaser. Such extension shall not be for a period exceeding three months, and no second extension shall be granted.

15. If a cultivator wilfully conceals any portion of his opium cultivation, he shall, if the crop be standing, be liable to pay double duty, in addition to any other penalty to which he may be liable: and if the opium has been extracted or the poppy-heads gathered, he may be prosecuted at the discretion of the Deputy Commissioner for an infringement of these rules.

16. All Zaildars, Lambardars, and Patwaris shall give information to the Tahsildar of unlicensed cultivation of the poppy or unlicensed manufacture of opium within their villages,

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*Manufacture.*

17. The holder of a cultivator's license is entitled to manufacture opium.

18. Any person who procures a license for that purpose from the Deputy Commissioner, may purchase standing crops of poppy from the cultivators. A fee of Rs. 20 shall be payable for such license. Such license conveys the right to manufacture opium. A register of licenses so issued shall be kept up by the Deputy Commissioner. The license shall authorise the purchase of the crops of any number of cultivators for one season.

19. A license-holder who purchases the standing crop of poppy is authorised to extract the opium and to gather the poppy-heads, and to sell them in accordance with the rules applicable to licensed opium vendors and purchasers, for wholesale vend.

20. A licensed purchaser of a standing crop of poppy is entitled to all the privileges attaching to an actual cultivator of poppy.

*Possession.*

21. No person, other than a person holding a license, order, or pass under these rules, shall have in his possession a greater quantity of opium or intoxicating drugs than three tolas weight, or of post or poppy-heads than five seers weight.

22. Rule 21 does not apply to—

(i) travellers and visitors from foreign countries beyond India, having in their possession any quantity of opium produced in such a foreign country, or intoxicating drugs prepared therefrom, not exceeding two seers in weight for the whole party, intended for the personal use of such travellers and visitors or their attendants, and not for sale or barter ;

(ii) foreign horse-dealers entering India with their horses, having in their possession opium produced in foreign territory, or intoxicating drugs prepared therefrom, limited to ten tolas weight per horse

If opium and intoxicating drugs be found in possession of any such travellers, visitors or horse-dealers in excess of the authorised quantity, such excess shall be liable to confiscation.

23. The Deputy Commissioner may grant to any medical practitioner residing within his district a license in Form II appended to these Rules, for the possession and retail of opium intoxicating drugs, and poppy-heads for medical purposes only : Provided that such medical practitioner shall not have in his possession at one time more than a half seer of opium, or half a seer of intoxicating drugs, and more than ten seers of poppy-heads.

*Transport.*

24. When a farmer, licensed vendor, or wholesale license-holder desires to transport opium, intoxicating drugs or poppy-heads—

*case* (*a*), from one district to another,

*case* (*b*), from one pargana to another pargana of the same district when the parganas of a district are farmed to different farmers,

he shall obtain a pass for each consignment in such form as the Financial Commissioner may, from time to time, prescribe—

in *case* (*a*), from the officer in charge of the excise revenue of the District,

in *case* (*b*), from the Tahsildar of the pargana,

from which, as the case may be, such opium, intoxicating drugs, or poppy-heads are to be transported.

The pass shall specify—

(1) the name of the person in charge of the consignment ;

(2) the name of the consignee ;

(3) the number of packages and the weight and contents of each ; and

(4) the destination of the consignment.

Each package shall be stamped in the presence of the officer granting the pass with his official seal.

No such pass shall be granted unless the person applying for it produces a written permission to apply for such pass—

in *case* (*a*), from the officer in charge of the excise revenue of the district,

in *case* (*b*), from the Tahsildar of the pargana,

to which as the case may be, the opium, intoxicating drugs, or poppy-heads are to be transported.

A copy of every transport pass granted shall be sent—

in *case* (*a*), to the officer in charge of the excise revenue of the district

in *case* (*b*), to the Tahsildar of the pargana,

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to which, as the case may be, the consignment is to be transported.

The bulk of a consignment shall not be broken in transit.

The pass and the packages shall, on arrival, be presented for examination—

in *case* (*a*), to the officer in charge of the excise revenue of the district;

in *case* (*b*), to the Tahsildar of the pargana.

25. No Railway Company shall receive or convey opium, intoxicating drugs, or poppy-heads not covered and accompanied by a pass of an officer competent under these Rules to grant the same; or shall convey opium, intoxicating drugs, or poppy-heads, otherwise than direct in the custody of its own officers to the station at which, according to the route prescribed in such permit or pass, it should leave the Railway. Such opium, intoxicating drugs or poppy-heads may be detained and examined as to number, weight, and tampering in transit at any station at which the Lieutenant-Governor of the Punjab may direct such detention or examination either generally or specially.

26. Subject to these Rules, sales by wholesale of Punjab-grown opium may be effected during transit by a wholesale license-holder: Provided they are duly recorded and attested on the pass by an officer not below the rank of a Tahsildar.

27. Packages covered by a pass must be effectually sealed by the officer granting the pass, and, after every sale on the journey, they must be resealed by the officer attesting the sale after re-examination and re-weighment.

28. Every Deputy Commissioner and other revenue officer not below the rank of Tahsildar, and every police officer not below the rank of Deputy Inspector, and every customs officer not below the rank of Assistant Patrol, is authorized to detain and inspect any despatch of opium, intoxicating drugs, or poppy-heads passing through his jurisdiction, and call for production of the pass.

29. Any Deputy Commissioner may extend the period for which a pass has been granted on application from the person in charge, on due cause being shown, and provided the packages are intact.

30. If on the inspection of a despatch under Rule 27 or 28, or on the arrival of a despatch at its destination, any deficiency is found, that cannot be accounted for by dryage, or wholesale sale as permitted by Rule 26, the holder of the pass and the person in charge shall be held to have infringed these Rules. The authorized rate allowed for diminution by dryage is a maximum of six per cent., of which one-and-a-half per cent. during the first week and three per cent. during the first fourteen days from the date of the pass.

31. The transport pass prescribed by Rule 24 must in all cases be delivered up to the Deputy Commissioner or Tahsildar on arrival at destination.

*Import.*

* 32. No opium, intoxicating drugs, or poppy-heads shall be imported into the Punjab except—

(*a*) on account of Government;

(*b*) by the persons and under the circumstances specified in Rule 22;

(*c*) by licensed vendors in accordance with these Rules.

Licensed vendors, and their agents, are allowed to make their own arrangements for the purchase of opium in places beyond the limits of the Punjab other than places in the North-Western Provinces, Oudh or Bengal, or in Nepal. In such cases, the importer must, ordinarily, take out a permit from the Deputy Commissioner of the Punjab district which the consignment may first enter, as also from the district where he is licensed to sell opium. Rules 24, 26, 27, 28, 29 and 30 apply to such a consignment, both in transit while in the Punjab and on arrival at its destination.

But if the licensed vendor desires to import Malwa Opium, he must procure from the Deputy Commissioner of the district in which he is licensed to sell opium, a written permit addressed to the Opium Agent, Indore or Ajmere, authorising him to import Malwa Opium. Such permit will not be granted unless the licensed vendor gives approved security to the Deputy Commissioner for the payment to the Opium Agent, Indore or Ajmere, of a sum not being less than the duty for the time being leviable on Malwa Opium imported into the Punjab.

On production of the permit, and on payment of the duty specified above at Indore or Ajmere, the Opium Agent at Indore or Ajmere will issue a pass to the licensed vendor covering an amount of Malwa Opium equal to that indicated in the permit, sending a counterpart of the pass to the Deputy Commissioner who issued the permit.

NOTE.—For Rules regarding the import of Malwa Opium, See Note (*b*), *infra*.

*NOTE.—See Financial Commissioner's Book Circular No. 1 A. of 1880, and Circular No. 9 of 1880. This rule is as amended by Notification No. 242, dated 28th September 1882 (*Punjab Gazette of 5th October* 1882).

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*Export.*

33. The re-export of foreign opium which has been imported for sale into the Punjab is prohibited.

34. The Deputy Commissioner may, at his discretion and when the person applying for the pass produces a written permission so to apply, signed, in the case of Native States under the Punjab Government, by the Vakeel of the State concerned, and in other cases by the Political Officer accredited by the British Government to the Foreign State into which such opium is to be imported, grant to a wholesale license-holder a pass in such form as the Financial Commissioner may prescribe for the export of such opium to Native States or independent territory; but no license shall be granted for the export of such opium to, or its sale in, any place in British territory.

The pass shall specify—

(1) the name of the person in charge of the consignment;

(2) the name of the consignee;

(3) the number of packages and the weght and contents of each; and

(4) the destination of the consignment.

* 34 A. The Assistant Commissioner of Kulu, for the time being, may, at his discretion grant to a wholesale license-holder a pass for the export of opium from Kulu to Ladakh, without the production of a written permission from the Vakeel of the Kashmir State, or from the accredited Political officers of the British Government at Kashmir and Ladakh.

*Sale, General.*

35. Opium may be purchased by four classes:

I.—Those who purchase Punjab-grown opium on wholesale licenses;

II.—Those who purchase opium (Punjab-grown or otherwise) on licenses for retail vend;

III.—Manufacturers who purchase the standing crop;

IV.—Private consumers (without license).

*Sale, Wholesale.*

36. By wholesale dealing is meant the purchase of, or sale of, not less than the following quantities, or if the entire stock or crop of the cultivator be less than these quantities, then such entire stock:

| | |
|---|---|
| Poppy-heads or post ... ... ... ... ... ... | 20 seers. |
| Opium or intoxicating drugs ... ... ... ... ... | 10 ,, |

37. A license for dealing wholesale in Punjab-grown opium, or intoxicating drugs prepared therefrom, or in poppy-heads, within the limits of any districts in the Punjab, except the districts of the Delhi and Hissar Divisions, may be granted by a Deputy Commissioner at his discretion to any farmer or to any other person.

38. A fee of twenty rupees shall be payable for such license. Such license shall specify the districts in which Punjab-grown opium or intoxicating drugs prepared therefrom may be purchased, and those in which such opium or intoxicating drugs may be sold under it, and it shall authorise the licensee to purchase wholesale from other wholesale license-holders, and from licensed cultivators, and to sell wholesale to other wholesale license-holders, to farmers, and to licensed vendors in the said districts respectively, and to such persons only. It shall be in force for one year from the date of issue, and at the end of the year it shall be returned to the Deputy Commissioner who issued it.

39. Whenever the holder of such a license effects a sale of opium or intoxicating drugs under it, he shall, before delivering such opium or intoxicating drugs, cause the sale to be recorded on his license at the nearest tahsil, and attested by the Tahsildar.

40. When a wholesale license-holder wishes to purchase or sell in a district not specified in his license, he shall apply to the Deputy Commissioner of that district to have his license enlarged or modified. The Deputy Commissioner will decide on the necessity or desirability of alteration, and if the enlargement or modification be sanctioned, it shall be communicated by such Deputy Commissioner to the Deputy Commissioner who issued the original license. For every such enlargement or modification there shall be payable a fee of ten rupees.

41. Opium shall be supplied in quantites of not less than one seer from the Deputy Commissioner's office on pre-payment at such rates as the Lieutenant-Governor of the Punjab may, from time to time, prescribe by notification in the *Punjab Gazette* to wholesale licenseholders, farmers, and to licensed vendors.

* See No. 793, dated 18th July 1881—(*Punjab Gazette of 21st idem*).

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42. A licensed vendor or farmer may sell any quantity of opium, intoxicating drugs, or poppy-heads, to another licensed vendor or farmer, and a quantity not exceeding half a seer in the case of opium or intoxicating drugs, and not exceeding ten seers in the case of poppy-heads, to a duly licensed medical practitioner.

*Sale, Retail.*

43. No person shall retail opium, intoxicating drugs, or poppy-heads, except under license from the Deputy Commissioner, or from a farmer, and in accordance with the conditions specified in the license.

44. The sale of any quantity not exceeding three tolas of opium or intoxicating drugs, or five seers of poppy-heads or post, is a retail ; and no larger quantities shall be sold, except to a wholesale licensed holder, farmer, licensed vendor, or medical practitioner, or under a special order from an officer exercising the powers of Deputy Commissioner.

45. Licenses for the retail of opium may be granted by the Deputy Commissioner.

Such limited number of shops for the retail vend of opium as the Commissioner may from time to time decide shall be allowed in each district, and the monopoly of retail vend at such shops shall be put up to auction at the commencement of each official year. The shops shall be sold singly or in such groups as the Deputy Commissioner may direct.

46. Licenses for the retail of opium shall be granted to licensed vendors in Form III.

47. Whenever the Deputy Commissioner grants a license for the retail of opium or of intoxicating drugs, he shall impose such conditions on the licensee besides those specified in the license as may, from time to time, be prescribed by the Financial Commissioner.

48. Licenses for the retail of intoxicating drugs shall be granted by the Deputy Commissioner in Form IV.

49. Licenses for retail vend shall be granted for one year only, unless the Financial Commissioner shall otherwise specifically direct.

50. Every person taking out a license in Form III or Form IV shall execute a counterpart engagement for the due performance of all the conditions expressed in the license, and any additional conditions which may be imposed by the Deputy Commissioner under the directions of the Financial Commissioner, and shall give such security for the performance of his engagement, or make such deposit, in lieu of security, as the Deputy Commissioner may require.

51. With the sanction of the Commissioner of the Division, the Deputy Commissioner may let in farm the duties leviable on the retail of opium, or of all or any intoxicating drugs, for a term not exceeding two years, and, with the sanction of the Financial Commissioner, for a term not exceeding five years. The Financial Commissioner may prescribe rules (*a*) for the invitation and acceptance of tenders for such farm ; (*b*) for the requisition of security for the due fulfilment of the engagements entered into by the farmers ; and (*c*) as to the form and conditions of such leases. Any breach of such engagement shall render the lease liable to annulment by the authority by whom the farm was sanctioned.

52. When the duties leviable on opium or any intoxicating drugs are let in farm, the farmer may make his own arrangements, consistently with the other provisions of these Rules, for the manufacture and retail thereof within the limits of his farm. All the penalties prescribed in the 9th and following sections of the Opium Act, 1878, for the unlawful manufacture sale, or possession of any such drug, shall be incurred by all persons manufacturing, selling, or possessing the same without license from the farmer.

53. Before entering into engagements for any such farm, the Deputy Commissioner may, with the sanction of the Commissioner of the Division, make such reservations or restrictions with respect to the grant of licenses by the farmer as he thinks fit.

Such licenses shall be granted in Form V.

54. Every farmer shall file in the Deputy Commissioner's office, in such form as may, from time to time, be prescribed by the Financial Commissioner, a list of all licenses granted by him.

55. With the sanction of the Financial Commissioner, obtained through the Commissioner of the Division, the Deputy Commissioner may cancel any lease granted under Rule 51 ; or may within the period of the lease, impose any new reservation or restriction on the farmer.

If a lease be cancelled for any cause other than a breach of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed during the lease, the Financial Commissioner may award to the farmer compensation for any loss thereby caused to him.

56. The Deputy Commissioner may grant licenses for the retail of poppy-heads, or may farm the duties leviable on the retail of the same, on such terms as the Financial Commissioner shall, from time to time, prescribe.

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57. If any licensed vendor or farmer shall have in his possession, on the expiry of his license or farm, any opium, intoxicating drugs, or poppy-heads which he is unable to dispose of to the satisfaction of the Deputy Commissioner by private sale to the other licensed vendors or farmers, he shall surrender the same to the officer in charge of the excise revenue; and the incoming licensed vendor or farmer, or, if the expired license or farm is not renewed, any licensed vendor or farmer within the district, when required by the Deputy Commissioner, shall be bound to purchase the articles aforesaid to the extent of two months supply, at such price, and in such quantities, as the Deputy Commissioner shall adjudge; provided that if such articles be declared by the Civil Surgeon of the district to be unfit for use, the Deputy Commissioner shall cause them to be destroyed.

*Permission to cultivate, &c.*

58. Subject to the exceptions, conditions, and regulations hereinbefore imposed and prescribed, the cultivation of the poppy, the manufacture of opium, the possession, transport, import, export, and sale of opium, intoxicating drugs, and poppy-heads, and the manufacture of opium and of such preparations, admixtures, and drugs are permitted; and, except as permitted by these Rules, the cultivation of the poppy, the manufacture of opium, the possession, transport, import, export, and sale of opium, intoxicating drugs, and of poppy-heads is prohibited.

*Disposal of things confiscated.*

59. (i). All things confiscated under the Opium Act, 1878, except opium, intoxicating drugs, and poppy-heads, shall be disposed of by the Deputy Commissioner by public sale.

* (ii). Opium so confiscated shall be sent for examination to the Civil Surgeon of the district, and, if declared by him to be fit for use, shall be disposed of in such manner as the Financial Commissioner may by general or special order direct. If declared to be unfit for use, it shall be immediately destroyed.

(iii). Intoxicating drugs so confiscated shall be immediately destroyed.

(iv). Poppy-heads so confiscated shall be disposed of as the officer in charge of the excise revenue of the district in which the confiscation is made may direct.

60. Any Magistrate convicting an offender under Section 9, or any Magistrate or other authorised officer ordering the confiscation of opium under Section 12 of the Opium Act, 1878, may grant, in such proportions as he thinks fit, to any person or persons who have contributed to the seizure of the opium or the conviction of the offender, a reward not exceeding the value of the opium (at the rate of three rupees a seer) and other articles confiscated in the case, *plus* the amount of any fine imposed.

61. If in any case the fine or forfeiture is not realised, the Financial Commissioner may grant such reasonable reward, not exceeding two hundred rupees, as may seem fit. The Financial Commissioner may also direct by general order what classes of excise officers shall receive rewards and what classes shall have no title to share therein.

*Miscellaneous.*

62. These Rules, except where otherwise expressly stated, extend to opium imported into the Punjab as well as to opium grown within the Punjab.

63. Farmers are prohibited from levying any fees from cultivators or manufacturers of opium for permission to cultivate or manufacture, or on any other pretext whatever.

64. The Financial Commissioner shall regulate the form and conditions of all licenses, leases, and passes granted under these Rules, and not specially provided for in the Rules, and all other forms, registers, returns, and accounts required under these Rules shall be in such form as the Financial Commissioner may direct.

65. Suspensions and remissions of demand may be made under the sanction of the Commissioner of the Division. In the case of suspensions, a date or dates for payment must be fixed.

Refunds may be made under the Rules applicable to refunds on account of land revenue.

All suspensions, remissions, and refunds sanctioned by Commissioners must be reported at the time to the Financial Commissioner.

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## FORMS.

*I.—Wholesale license granted under Rules 36 to 39.*

License to deal in opium grown in the Punjab (except in the Delhi and Hissar Divisions where the cultivation is prohibited) is granted to subject to the undermentioned conditions, and to all other provisions relating to wholesale dealing in opium, intoxicating drugs, or poppy-heads, contained in the rules relating to opium grown in the Punjab.

The license-holder is authorised to purchase Punjab-grown opium, intoxicating drugs prepared therefrom, and poppy-heads, wholesale, from other wholesale license-holders, and from licensed cultivators in the following districts or places—

* See Financial Commissioner's Circular Memo. No. 53 of 1888.

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and is authorised to sell the said opium, intoxicating drugs prepared therefrom, and poppy-heads, wholesale, to other wholesale license-holders, to farmers, and to licensed retail vendors in the following districts or places—

This license remains in force for one year from date of issue, and shall be returned on expiry to the undersigned.

*Date*

*Place* ——— *Deputy Commissioner.*

*II.—Special license to medical practitioner under Rule 23.*

Special license granted to following the profession of at in the district of , for the retail of opium, pure or mixed, on the condition that such opium shall be procured from a licensed vendor, and shall be used *bonâ fide* as medicine or in medical preparations or prescriptions.

*District*

*Dated* } ———

*III.—License for retail vend (general).*

District
No. of license in Register
Name of retailer
Locality of shop

Be it known that resident of pargana district of , is hereby authorised by the Deputy Commissioner of to sell opium by retail at in from the date of this license to the day of 18 , upon the following conditions :—

I.—That he will pay to Government a monthly duty of

II.—That he will retail opium only in the shop for which this license is granted.

III.—That, except to a licensed vendor or to a medical practitioner holding a special license from the Deputy Commissioner, he will not sell more than three tolas weight of opium to any person at one time.

IV.—That he will not adulterate the opium sold by him.

V.—That he will not receive any wearing apparel or other goods in barter for opium.

VI.—That he will not open his shop or make sales therein, before sunrise; that he will not keep it open, or make sales therein, after ; and that he will not harbour any person therein during the night.

VII.—That he will not permit persons of notoriously bad character to resort to his shop ; that he will prevent gaming and disorderly conduct therein ; and that he will give information to the nearest Magistrate or police officer of any suspected person who may resort to his shop.

VIII.—That he will have constantly fixed up at the entrance of his shop, a signboard bearing the following inscription, in legible characters, in the vernacular language ;—

(*Name of vendor.*)

"Licensed to retail opium."

IX.—That if he buy less than , which is the quantity estimated to be retailed at in each month, he will, if required, explain the reason of the falling-off to the Deputy Commissioner.

X.—That he will keep up daily an account in this form, showing the receipts and deliveries of opium at his shop each day, and the balance in store :—

| Date. | Quantity of opium in store from yesterday. | Quantity of opium received this day and whence received. | Total quantity to be accounted for. | Quantity sold this day. | Quantity left in store. |
|---|---|---|---|---|---|

XI.—That he will at once produce his license and accounts for inspection, on the demand of any officer of any of the Departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, empowered under Section 14 of the Opium Act ; and that he will not prevent any such officer, of whatever rank, from entering his shop at any hour of the day or night.

XII.—This license shall have effect from to , and, unless renewed by the order of the by the day of , being the expiration of the period for which it was granted, shall cease to remain in force, notwithstanding that a special order recalling it has not been issued by the

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XIII.—This license may be recalled by the Deputy Commissioner—

(*a*) for default of punctual payment of the duty stipulated to be paid in clause I ;

(*b*) for violation of any of the conditions specified in this license ;

(*c*) if the holder of this license be convicted of breach of the peace, or of any other criminal offence during the currency of this license.

Should the license be recalled for any of these causes, the license-holder will have no claim to any compensation whatever, or to any refund of any duty, or instalment of duty, already paid. But it shall be in the discretion of the Deputy Commissioner to make such compensation or refund, should he consider it necessary or advisable to do so.

Should the Deputy Commissioner desire to recall this license before the expiry of the period for which it has been granted for any cause other than those above specified, (*a*), (*b*), and (*c*), he shall give 15 days' previous notice, and remit a sum equal to the duty for 15 days, or, if notice be not given, shall make such further compensation, in default of notice, as the Commissioner may direct.

XIV.—This license may be surrendered by the license-holder on his giving one month's notice to the Deputy Commissioner, and paying such fine, not exceeding the amount of the duty for six months, or the loss caused to Government by the failure to carry out any condition imposed, as the Deputy Commissioner may adjudge.

Should the Deputy Commissioner be satisfied that the reason for resigning the license is adequate, he may with the sanction of the Financial Commissioner, remit the fine.

XV.—On the infringement of any of the above articles, or of any of the conditions imposed by the Opium Act, 1878, or by the rules made thereunder, this license, and any other license or licenses that the holder may have obtained for the sale of opium or for the manufacture or sale of madak or chandu, will be forfeited ; he will also be liable to the punishment prescribed by law for the specific offence committed.

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*IV.—License for the retail sale of madak or of chandu.*

District
No. in Register
Name of vendor
Locality of shop

Be it known that resident of pargana district of , is authorized by the Deputy Commissioner of to open a shop for the retail vend of madak (or chandu, as the case may be) at from the date of this license to the 18 upon the following conditions :

I.—That he will pay to Government a monthly duty of

II.—That he will sell madak (or chandu) only in the shop for which this license is granted, and that he will not sell madak (or chandu) in any other place.

III.—That, except to a licensed vendor or to a medical practitioner duly licensed, he will not sell more than three tolas weight of madak (or chandu) to one person at one time.

IV.—That he will not receive any wearing apparel, or other goods, in barter for the drug.

V.—That he will not open his shop, or make sales therein, before sunrise ; that he will not keep it open, or make sales therein, after : and that he will not harbour any suspected person therein.

VI.—That he will not permit persons of notoriously bad character to resort to his shop ; that he will prevent gaming and disorderly conduct therein ; and that he will give information to the nearest Magistrate or police officer of any suspected person who may resort to his shop ;

VII.—That he will have constantly fixed up, at the entrance of his shop, a signboard, bearing the following inscription, in the vernacular language of the country :

(*Name of vendor*).

"License vendor of madak (or chandu)."

VIII.—That he will keep up daily the following account, showing the receipts of opium in his shop, the quantity used in the manufacture of madak (or chandu), and the balance remaining in store at the end of the day :

I.—OPIUM.

| Date. | Quantity of opium remaining in store yesterday. | Quantity received to-day and whence received. | Total quantity of opium to be accounted for. M. S. C. | Opium used in the preparation of madak (or chandu). M. S. C. | Quantity remaining in store. |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |

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II.—MADAK OR CHANDU.

| Date. | Quantity remaining in store yesterday. | Quantity manufactured out of opium to-day. | Total quantity of madak or chandu to be accounted for. | Madak or chandu sold to-day M. S. C. | Quantity remaining in store this day. |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |

IX.—That he will at once produce his license and accounts for inspection, on the demand of any officer of any of the departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable empowered under Section 14 of the Opium Act; and that he will not prevent any such officer, of whatever rank, from entering his shop at any hour of the day or night.

X.—This license shall have effect from to , and, unless renewed by the order of the by the day of being the expiration of the period for which it was granted, shall cease to remain in force notwithstanding that a special order recalling it has not been issued by the

XI.—This license may be recalled by the Deputy Commissioner—

(*a*) for default of punctual payment of the duty stipulated to be paid in clause I;

(*b*) for violation of any of the conditions specified in this license;

(*c*) if the holder of this license be convicted of breach of the peace, or of any other criminal offence during the currency of this license.

Should the license be recalled for any of these causes, the license-holder will have no claim to any compensation whatever, or to any refund of any duty, or instalment of duty, already paid. But it shall be in the discretion of the Deputy Commissioner to make such compensation or refund, should he consider it necessary or advisable to do so.

Should the Deputy Commissioner desire to recall this license before the expiry of the period for which it has been granted for any cause other than those above specified, (*a*), (*b*) and (*c*), he shall give 15 days' previous notice, and remit a sum equal to the duty for 15 days, or if notice be not given, shall make such further compensation in default of notice, as the Financial Commissioner may direct.

XII.—This license may be surrendered by the license-holder on his giving one month's previous notice to the Deputy Commissioner, and paying such fine not exceeding the amount of the duty for six months, or the loss caused to Government by the failure to carry out any condition imposed, as the Deputy Commissioner may adjudge.

Should the Deputy Commissioner be satisfied that the reason for resigning the license is adequate, he may, with the sanction of the Financial Commissioner, remit the fine.

XIII.—On the infringement of any of the above articles, or any of the conditions imposed by the Opium Act, 1878, or by the rules made thereunder, this license, and any other license or licenses that the holder may have obtained for the sale of opium, or for the manufacture or sale of madak or chandu, will be forfeited; he will also be liable to the punishment prescribed by law for the specific offence committed.

*V.—License for the retail sale of opium, madak or of chandu granted by a farmer.*

District
No. in Register
Name of vendor
Locality of shop

Be it known that resident of pargana district of , is authorized by , the farmer of , to open a shop for the retail vend of opium, madak (or chandu, as the case may be), at from the date of this license to the 18 , on the following conditions :—

I.—That he will pay to the farmer, a monthly duty of

II.—That he will purchase all the opium he may use in the manufacture of madak (or chandu, as the case may be) direct from the farmer and not from any opium vendor.

III.—That he will sell madak (or chandu) only in the shop for which this license is granted.

IV.—That except to a licensed vender or to a medical practitioner duly licensed, he will not sell more than three tolas weight of madak or chandu to one person at one time.

V.—That he will not receive any wearing apparel, or other goods, in barter for the drug.

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VI.—That he will not open his shop, or make sales therein, before sunrise ; that he will not keep it open, or effect sales therein after ; and that he will not harbour any suspected person therein.

VII.—That he will not permit persons of notoriously bad character to resort to his shop, that he will prevent gaming and disorderly conduct therein ; and that he will give information to the nearest Magistrate or police officer of any suspected person who may resort to his shop.

VIII.—That he will have constantly fixed up at the entrance of the shop a signboard bearing the following inscription, in the vernacular language of the country :—

(*Name of vendor.*)

"Licensed vendor of opium (madak or chandu)."

IX.—That he will keep up daily the following account, showing the receipts of opium in his shop, the quantity used in the manufacture of and the balance remaining in store at the end of the day :—

I.—OPIUM.

| Date. | Quantity of opium remaining in store yesterday. | Quantity received to-day and whence received. | Total quantity of opium to be accounted for. M. S. C. | * Opium sold. M. S. C. | † Opium used in the preparation of madak (or chandu). M. S. C. | Quantity remaining in store. |
|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |

II.—MADAK OR CHANDU.

| Date. | Quantity remaining in store yesterday. | Quantity manufactured out of opium to-day. | Total quantity of madak or chandu to be accounted for. | Madak or chandu sold to-day. M. S. C. | Quantity remaining in store this day. |
|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |

X.—That he will at once produce his license and accounts for inspection, on the demand of any officer of any of the Departments of Excise, Police, Customs, Salt, Opium, or Revenue, superior in rank to a peon or constable, empowered under Section 14 of the Opium Act ; and that he will not prevent any such officer, of whatever rank, from entering his shop at any hour of the day or night.

XI.—This license may be recalled by the farmer,—

(*a*) for default of punctual payment of the duty stipulated to be paid in clause I ; and by the farmer or Deputy Commissioner,

(*b*) for violation of any of the conditions specified in this license ;

(*c*) if the holder of this license be convicted of breach of the peace or of any other criminal offence during the currency of this license.

XII.—On the infringement of any of the above articles, or of any of the conditions imposed by the Opium Act, 1878, or by the rules made thereunder, this license and any other license or licenses that the holder may have taken out for the sale of opium, or for the manufacture or sale of madak or chandu, will be forfeited ; he will also be liable to the punishment prescribed by law for the specific offence committed.—(*Punjab Government Notification No. 2, dated 3rd January* 1880, *Punjab Gazette of 8th idem*). See also *Financial Commissioner's Book Circular No. XXVI of* 1881.

(*b*). The Government of India having by Notification No. 1001, dated 12th May 1882 in the Department of Finance and Commerce (copy annexed to this Circular), ‡ authorized the importation of Malwa Opium into the Punjab on payment of quarter duty, or Rs. 175 per

* This column will be blank when the license is to sell intoxicating drugs only.

† This column will be blank when the license is to sell opium only.

‡ See Note to S. 6, *ante* p. 1036.

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chest of 140¼ lbs. avoirdupois, the attention of all Revenue Officers is invited to the annexed rules regarding the import of such opium, which have been drawn up in consultation with the Opium Agent at Indore.

2 The Deputy Commissioners of those districts into which Malwa Opium is likely to be imported, should take pains to make it known to all licensed vendors and farmers, that in future permits for the importation of Malwa Opium can, under the authority of the amended Rule 32 of the Punjab Opium Rules, published with Punjab Government Notification No. 242, dated 28th September 1882, Department of Revenue and Agriculture (a copy of which is annexed to this Circular *), be granted at Ajmere as well as Indore, and that opium can be weighed and passes obtained from the former as well as the latter depôt.

3. Directly after the annual sale of the licenses for vend of opium has taken place, each Deputy Commissioner should submit an estimate of allotment from the 1,200 maunds of Màlwa Opium at ¼th duty, which he thinks the farmers and licensed vendors of his district will require in the ensuing year, specifying the details of the quantity they wish to take from Ajmere and Indore, respectively.

4. As the States of Bahàwalpur and Lohàru and the Bawal, Nauti, Narnaul, Nanàundh and Dadri parganahs of the Nabha, Patiala and Jhind States and the Nabal villages of the Dujàna State adjoin directly or indirectly the Rajputana boundary, and Màlwa Opium may be imported into them from Rajputana without the payment of any duty to the British Government, it follows that if our licensed vendors are allowed to import opium into British districts from those territories there is great risk of their importing Màlwa Opium which has paid no duty. To obviate this risk it has been decided to alter the rules under the Opium Act so as to include the above-mentioned territories among the localities from which licensed vendors are forbidden to purchase opium for import to the Punjab. For the present, however, till the rules are altered, the Financial Commissioner requests Deputy Commissioners not to grant to licensed vendors permits or passes for the import of opium from the State of Bahawalpur and Lohàru, or from the above-mentioned parganahs and villages of the Nàbha, Jhind, Patiala, and Dujána States which adjoin Ràjputana.

5. This Circular supersedes the following orders on the subject of the importation of Málwa Opium :—

Circular No. 6 of 1882 ; Circular No 29 of 1882 ; Circular No. 33 of 1882.

*Rules regarding the Import of Malwa Opium into the Punjab.*

1. The 1,200 maunds of Màlwa Opium for the yearly import of which on payment of ¼th duty, or Rs. 175 per chest of 140¼ lbs., permission has been granted by the Government of India, will be allotted annually by the Financial Commissioner to different districts. The order of allotment will state whether the amount of opium allotted to each district is to be imported from Indore or from Ajmere, or from both places, and in the latter case in what proportions.

2. Each Deputy Commissioner may issue permits addressed to the Opium Agent Indore or Ajmere for the import of Màlwa Opium on payment of ¼th duty to an amount not exceeding the total allotment for his district. When the allotment for the year has been exhausted, no further permits for import on payment of ¼th duty may be issued ; but permits may be granted for import on payment of the full duty of Rs. 700 per chest.

If after his allotment is exhausted the Deputy Commissioner considers it advisable to obtain permission to import more Màlwa Opium on payment of ¼th duty, he may apply to this office, and a transfer from a district whose allotment appears likely to be in excess of its requirements will if possible be arranged.

3. The original allotments for each district on Indore or Ajmere as the case may be, and all transfers of allotments subsequently made will be reported by this office to the Opium Agent at Indore and the Commissioner, Ajmere, respectively.

4. All permits granted for the import of Màlwa Opium shall show on the face of them whether the permit is addressed to the Opium Agent, Indore or Ajmere, and whether the import is to be subject to payment of ¼th duty or of the full duty, and at the foot of the permit a note will be entered stating the total amount of Màlwa Opium for the import of which, on payment of ¼th duty, permits have already been granted during the year by the Deputy Commissioner issuing the permit to the Opium Agent concerned. The permits shall show in detail—

Name of importer.
Name of consignee.
Quantity (in chests of 140¼ lbs. each).
Destination.
Route { by Railway. / by Road.
Period (within which the opium can be exported from Malwa)

* *Vide* Rule 32, *ante* p. 1045

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A duplicate of the permit shall be sent by post to the Deputy Opium Agent in Màlwa, Indore or Ajmere, as the case may be, by the Deputy Commissioner issuing the permit.

5. An importer who has obtained a permit may buy Màlwa Opium in any of the States in which it is grown, but he must take it to the scales at Indore or Ajmere, according to whether his permit is addressed to the Opium Agent, Indore or Ajmere, and deliver his permit to the Deputy Opium Agent stationed at such place.

6. The Deputy Opium Agent on receiving the duty payable, will grant an export pass showing the name of the exporter, the amount of opium to be exported, the Deputy Commissioner to whom it is consigned, the route by Railway and Bullock train, the period during which the pass shall remain in force, and the Revenue Officer under authority of whose permit the pass is granted. Màlwa Opium can only be imported into the Punjab by the Ratlum-Neemuch-Ajmere line of Railway.

The pass will be sent to the railway authorities with the consignment, who will, after recovering all necessary charges from the exporter, consign the opium to the Deputy Commissioner mentioned in the pass. Opium intended for export to the districts of Karnal, Hissar, Sirsa, and Rohtak shall be consigned to the Deputy Commissioner of Delhi.

7. The export pass shall be delivered to the Deputy Commissioner along with the opium consigned to him.

8. On receipt of the opium, the Deputy Commissioner will examine the consignment with the passport covering the same and with the advice of the despatch of opium for warded to him by the Deputy Opium Agent.

9. The Deputy Commissioner will then deliver the opium to the importer to whom he had granted the permit authorizing the import. Before delivery, the amount will be again compared with the amount entered in the export pass.

[*Note.*—In the case of opium intended for Kàrnal, Hissar, Rohtak or Sirsa, the Deputy Commissioner of Delhi to whom it will be consigned (Rule 6), and not the Deputy Commissioner who originally granted the import permit, will deliver the opium to the importer.

To ensure a proper check in such cases, the Financial Commissioner prescribes the following procedure. Before making over the opium to the importer the Deputy Commissioner of Delhi, or his Assistant in charge of Excise, will compare the weight of the opium received with the amount entered in the advice and passport as required by Rule 8. He will afterwards cause the packages to be carefully sealed with his own seal and then carry out, so far as it is applicable, the procedure in regard to the transport of opium from one district to another, prescribed in the 24th of the Rules issued under the Opium Act].

10. After delivery of the opium the Deputy Commissioner will return the export pass covering the consignment *en route* duly cancelled to the Opium Agent at Indore or Ajmere, as the case may be.

11. The duty levied by the Deputy Opium Agent will be remitted either by Hundi or by Remittance Transfer Receipt to the Financial Commissioner, Punjab.

12. It must be clearly understood that permits for the import of Màlwa Opium at the reduced rate of duty can only be granted by the Deputy Commissioner of those districts to which an allotment has been made by the Financial Commissioner.—*Financial Commissioner's Circular No.* 49 *of* 1882).

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(*c*). In continuation of this office Book Circular XII of 1881, forwards for careful compliance, a copy of Government of India, Department of Finance and Commerce, Circular Letter No. 196, dated 13th April 1882:—

*No. 196, dated Simla, the 13th April* 1882.

From—*The Offg. Under Secretary to the Govt. of India, Dept. of Finance and Commerce,*

To—*The Secretary to Government, Punjab.*

In supersession of the instructions regarding reports on smuggled opium, contained in this Department letter No. 2245, dated 12th August 1881, I am directed to request observance of the following procedure.

2. When opium smuggled from another Province is seized, and a prosecution has resulted in the conviction of the person in possession of the drug, a report embodying the name of the person or persons accused, together with the deposition of the informers and the person accused, or other suitable information with special reference to the manner in which, from whom, and from what place, the opium was obtained, should be forwarded immediately to the Local Government or Administration within whose jurisdiction the drug is alleged to have been procured, and to this Department. The Local Government or Administration receiving the report shall see that the case is actively followed up, and that every endeavour is made to trace and bring to justice the cultivators or other person by whom the opium was illicity sold.

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3. With regard to the smuggling of local opium detected locally, this Department should be furnished with a special report of each important case discovered.

(*Financial Commissioner's Circular No.* 28 *of* 1882).

See also Financial Commissioner's Circulars Nos. 13, 25 and 34 of 1887.

(*d*). For a revised form of the quarterly return of excise income (including opium and drugs), see Financial Commissioner's Circular No. 25 of 1886.

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## ACT NO. VI of 1878.

(*Passed on the* 13*th February* 1878).

An Act to amend the law relating to Treasure Trove.

Preamble.

Whereas it is expedient to amend the law relating to treasure trove ; It is hereby enacted as follows :—

*Preliminary.*

Short title.

1. This Act may be called "The Indian Treasure Trove Act, 1878."

Extent.

It extends to the whole of British India ;

Commencement.

And it shall come into force at once.

Repeal of enactments.

2. The enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column of the same schedule.

Interpretation-clause.

3. In this Act—

"Treasure."

"Treasure" means anything of any value hidden in the soil, or in anything affixed thereto :

"Collector."

"Collector" means (1) any revenue officer in independent charge of a district, and (2) any officer appointed by the Local Government to perform the functions of a Collector under this Act.

Owner.

When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall for the purposes of this Act, be deemed to be the owner of such land or thing.

*Procedure on finding Treasure.*

Notice by finder of treasure.

4. Whenever any treasure, exceeding in amount or value ten rupees is found, the finder shall, as soon as practicable, give to the Collector notice in writing—

(*a*) of the nature and amount or approximate value of such treasure,

(*b*) of the place in which it was found ;

(*c*) of the date of the finding ;

and either deposit the treasure in the nearest Government Treasury, or give the Collector such security as the Collector thinks fit, to produce the treasure at such time and place as he may, from time to time, require.

Notification requiring claimants to appear.

5. On receiving a notice under section four, the Collector shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely):—

(*a*) he shall publish a notification in such manner as the Local Government, from time to time, prescribes in this behalf, to the effect that, on a certain date (*mentioning it*) certain treasure (*mentioning its nature, amount, and*

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*approximate value*), was found in a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Collector on a day at a place therein mentioned such day not being earlier than four months, or, later than six months, after the date of the publication of such notification;

(*b*) when the place in which the treasure appears to the Collector to have been found was, at the date of the finding, in the possession of some person other than the finder, the Collector shall also serve on such person a special notice in writing to the same effect.

Forfeiture of right on failure to appear.

6. Any person having any right to such treasure or any part thereof as owner of the place in which it was found or otherwise; and not appearing as required by the notification issued under section five, shall forfeit such right.

Matters to be enquired into and determined by the Collector.

7. On the day notified under section five, the Collector shall cause the treasure to be produced before him, and shall enquire as to and determine—

(*a*) the person by whom, the place in which, and the circumstances under which, such treasure was found; and

(*b*) as far as is possible, the person by whom, and the circumstances under which, such treasure was hidden.

Time to be allotted for suit by person claiming the treasure.

8. If, upon an enquiry made under section seven, the Collector sees reason to believe that the treasure was hidden within one hundred years before the date of the finding by a person appearing as required by the said notification and claiming such treasure, or by some other person under whom such person claims, the Collector shall make an order adjourning the hearing of the case for such period as he deems sufficient, to allow of a suit being instituted in the Civil Court by the claimant, to establish his right.

When treasure may be declared ownerless.

9. If upon such enquiry the Collector sees no reason to believe that the treasure was so hidden; or

if, where a period is fixed under section eight, no suit is instituted as aforesaid within such period to the knowledge of the Collector; or

if such suit is instituted within such period, and the plaintiff's claim is finally rejected;

the Collector may declare the treasure to be ownerless.

Appeal against such declaration.

Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Chief Controlling Revenue Authority.

Subject to such appeal, every such declaration shall be final and conclusive.

Proceedings subsequent to declaration.

10. When a declaration has been made in respect of any treasure under section nine, such treasure shall, in accordance with the provisions hereinafter contained, either be delivered to the finder thereof, or be divided between him and the owner of the place in which it has been found in manner hereinafter provided.

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When no other person claims as owner of place, treasure to be given to finder.

11. When a declaration has been made in respect of any treasure as aforesaid, and no person other than the finder of such treasure has appeared as required by the notification published under section five and claimed a share of the treasure as owner of the place in which it has been found, the Collector shall deliver such treasure to the finder thereof.

When only such person claims and his claim is not disputed, treasure to be divided, and shares to be delivered to parties.

12. When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed, and the claim of such person is not disputed by the finder, the Collector shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely) :—

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, three-fourths of the treasure shall be allotted to such finder and the residue to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith :

Provided that the Collector may in any case, if he thinks fit, instead of dividing any treasure as directed by this section,

(*a*) allot to either party the whole or more than his share of such treasure, on such party paying to the Collector for the other party such sum of money as the Collector may fix as the equivalent of the share of such other party, or of the excess so allotted, as the case may be ; or

(*b*) sell such treasure or any portion thereof by public auction and divide the sale-proceeds between the parties according to the rule hereinbefore prescribed :

Provided also, that when the Collector has by his declaration under section nine rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found, such division shall not be made until after the expiration of two months without an appeal having been presented under section nine by the person whose claim has been so rejected, or, when an appeal has been so presented, after such appeal has been dismissed.

When the Collector has made a division under this section, he shall deliver to the parties the portions of such treasure, or the money in lieu thereof, to which they are respectively entitled under such division.

In case of dispute as to ownership of place, proceedings to be stayed.

13. When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Collector shall retain such treasure and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

Settlement of such dispute ;

14. Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right ; and in every such suit the finder of the treasure and all persons disputing such claim before the Collector shall be made defendants.

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**15.** If any such suit is instituted and the plaintiff's claim is finally established therein, the Collector shall, subject to the provisions of section twelve, divide the treasure between him and the finder.

and division thereupon.

If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally rejected, the Collector shall deliver the treasure to the finder.

**16.** The Collector may, at any time after making a declaration under section nine, and before delivering or dividing the treasure as hereinbefore provided, declare by writing under his hand his intention to acquire on behalf of the Government the treasure, or any specified portion thereof, by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons; and thereupon such treasure or portion shall be deemed to be the property of Government, and the money so deposited shall be dealt with, as far as may be, as if it were such treasure or portion.

Power to acquire the treasure on behalf of Government.

**17.** No decision passed or act done by the Collector under this Act shall be called in question by any Civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

Decision of Collector final, and no suit to lie against him for acts done *bonâ fide*.

**18.** A Collector making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits.

Collector to exercise powers of Civil Court.

**19.** The Local Government may, from time to time, make rules consistent with this Act, to regulate proceedings hereunder.

Power to make rules.

Such rules shall, on being published in the Local Gazette, have the force of law.

NOTE.—The Rules framed under this section will be found at the end of the Act.

*Penalties.*

**20.** If the finder of any treasure fails to give the notice, or does not either make the deposit or give the security required by section four, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty,

Penalty on finder failing to give notice, &c.

and he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

**21.** If the owner of the place in which any treasure is found abets, within the meaning of the Indian Penal Code, any offence under section twenty, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Her Majesty,

Penalty on owner abetting offence under Section 20.

and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months, or with fine, or with both.

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SCHEDULE.

| Number and date of enactments. | Title or subject. | Extent of repeal. |
|---|---|---|
| Bengal Regulation V of 1817. | A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on the discovery of such treasure. | The whole. |
| Madras Regulation XI of 1832. | A Regulation for declaring the rights of Government and of individuals with respect to hidden treasure, and for prescribing the rules to be observed on discovery of such treasure. | The whole. |
| Act XII of 1838 ... | Hidden Treasure (Madras). | The whole. |
| Act IV of 1872. ... | An Act for declaring which of certain rules, laws and regulations have the force of law in the Punjab and for other purposes. | So far as regards Bengal Regulation V of 1817. |
| Act XV of 1874 ... | Laws Local Extent ... ... ... | The second schedule, so far as regards Madras Regulation XI of 1832 and Act XII of 1838. The fourth schedule, so far as regards Bengal Regulation V of 1817. |
| Act XVII of 1875 ... | An Act to consolidate and amend the law relating to the Courts in British Burma, and for other purposes. | So far as regards Bengal Regulation V of 1817. |
| Act XX of 1875 ... | An Act to declare and amend the law in force in the Central Provinces. | Ditto. |
| Act XVIII of 1876 ... | Oudh Laws Act ... ... ... ... | Ditto. |

NOTES.—(*a*). Attention is drawn to the Rules under the Treasure Trove Act, VI of 1878, hereto annexed, and to the following subsidiary instructions issued by the Financial Commissioner, with the approval of Government, in supersession of former orders on the subject.

2. The date in the notification under Section 5 (*a*) of the Act, in the terms of Form A. of rule I, for the enquiry under that section, should always be, as therein required, not earlier than four months, and not later than six months, from the date of the publication of the notification. Careful attention to this point is necessary, as a material error in the period fixed might vitiate the subsequent proceedings.

3. The object of the report to Government through the Financial Commissioner, prescribed in rule IV, is that Government may be enabled to determine whether specimens of ancient coins and articles of antiquarian interest are to be offered to the Asiatic Society, Calcutta, or other scientific bodies, and what specimens, if any, are to be sent to the Central Museum at Lahore.

4. Commissioners and Deputy Commissioners should take measures to prevent any appropriation of coins, sculptures, or other articles or remains of architectural or antiquarian interest from any Government lands, and to prohibit any excavation whatever in such lands by private individuals without the special sanction of Government.

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HOME DEPARTMENT.

*Notification.—No. 735, dated 21st February 1879.*

The following rules are prescribed by the Hon'ble the Lieutenant-Governor, Punjab, under Section 19 of the Treasure Trove Act, VI of 1878, to regulate proceedings under that Act:—

I.—The notification required by Section 5 of the Act shall be in the following form:—

FORM A.

*Notification under Section 5 of the Treasure Trove Act, VI of 1878.*

Whereas on the ( date), treasure of the following description and value ( ) was found by (person) in (place); all persons claiming the said treasure, or any part thereof, are hereby required to appear personally, or by agent, before the Deputy Commissioner of (district) on the day of 18 at the (district Kutcherry, or on the spot, if necessary, or such other place as may be convenient) in order that inquiry may be made concerning, and orders may be passed as to the disposal of, the said treasure pursuant to the provisions of the said Act.

Date Signature of

*Deputy Commissioner.*

NOTE.—The notice in Form A should also be served on the "owner" of the place, if he is known.

II.—The notice to the person in possession of the land or thing in which the treasure was found, required to be served on such person under Section 5, clause (*b*), shall be in the same terms as the above, and shall in addition contain the following words at the end:—

FORM B.

And whereas the place where the said treasure was found by the said (name of finder) is believed to have been, on the date of the said finding, in your possession, your attendance at the enquiry is specially required, failing which your right to a share of the treasure will be forfeited, as prescribed in Section 6 of the Act.

Date Signed

*Deputy Commissioner.*

III.—The above notification and notice shall be in English and vernacular, and copies of Form A, shall be posted up at the District Kutcherry, at the Tashil, in the village where the find took place, at or near the spot where the treasure was found, if the Deputy Commissioner approve, and in such other places as the Deputy Commissioner may think proper.

IV.—When the treasure found consists of ancient coins, sculptures, or other articles of antiquarian interest whatsoever, the Deputy Commissioner shall before delivering or dividing the treasure under Section 11 or 12, report the same through the Commissioner and Financial Commissioner for the information of Government, with a view to obtaining instructions as to whether the treasure is to be acquired on behalf of Government, in the manner prescribed in Section 16 of the Act.

V.—Appeals to the Financial Commissioner from the orders of the Deputy Commissioner under Section 9 of the Act, shall be dealt with under the orders for the time being in force regarding administrative appeals of the Revenue Department, except that there shall be no intermediate appeal to the Commissioner.

VI.—The special notice prescribed by Section 5 (*b*) shall, so far as is consistent with the Act under which these rules are framed, be served in the manner provided by the Code of Civil Procedure for the service of a summons.

VII.—Where two or more persons are in possession of the place in which the treasure appears to have been found, the service shall, subject to the limitation in rule VI above, conform to the rules for the service of a summons upon two or more defendants contained in the Code of Civil Procedure.—(*Financial Commissioner's Book Circular No. II of* 1879).

(*b*).—For instructions for dealing with coins found under the above Act, see Government of India Resolution No. 46—1668-82, dated 9th October 1884, and see Financial Commissioner's Circular No. 48 of 1884.

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# ACT No. VII of 1878.

(*Passed on 8th March* 1878).

An Act to amend the law relating to Forests, the transit of forest produce, and the duty leviable on timber.

Preamble.

Whereas it is expedient to amend the law relating to forests, the transit of forest-produce, and the duty leviable on timber; It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

Short title.

1. This Act may be called "The Indian Forest Act, 1878;"

Commencement.

It shall come into force at once in the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the Lower Provinces, the North-Western Provinces, and the Punjab (except the District of Hazara), and the Chief Commissioners of Oudh, the Central Provinces, and Assam.

Extension.

And any other Local Government may from time to time, with the previous sanction of the Governor-General in Council, extend, by notification in the local official Gazette, this Act to all or any of the territories for the time being under its administration.

Repeal of enactments.

On and from the date on which this Act comes into force in any of the said territories, the enactments mentioned in the schedule hereto annexed shall be repealed in such territories. But all rules made under or validated by any of the said enactments and in force at the date of such repeal shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

Interpretation-clause.

2. In this Act, unless there be something repugnant in the subject or context,—

"Forest-officer" means any person whom the Governor-General in Council, or the Local Government, or any officer empowered by the Governor-General in Council or the Local Government in this behalf, may, from time to time, appoint by name, or as holding an office, to carry out all or any of the purposes of this Act, or to do anything required by this Act or any rule made under this Act to be done by a forest-officer:

"Tree" includes bamboos, stumps, and brushwood:

"Timber" includes trees and bamboos when they have fallen or have been felled, and all wood, whether cut up, or fashioned, or hollowed-out for cart-wheels, mortars, canoes, or other purposes, or not:

"Forest-produce" includes the following when found in, or brought from a forest, that is to say,—

minerals (including limestone and laterite), surface soil, trees, timber, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, roots, juice, catechu, bark, honey, wax, lac, caoutchouc, gum, wood-oil, grass-oil, resin, varnish, silk-worms and cocoons, shells, skins, tusks, bones, and horns:

"Forest-offence" means an offence punishable under this Act, or under any rule made under this Act:

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"Cattle" includes elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids:

"River" includes streams, canals, creeks, and other channels, natural or artificial.

## CHAPTER II.

### Of Reserved Forests.

Power to reserve forests.

3. The Local Government may, from time to time, constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided.

Note.—For a list of reserved forests, see Note (*a*) at end of this Act.

Notification by Local Government.

4. Whenever it is proposed to constitute any land a reserved forest, the Local Government may publish a notification in the local official Gazette—

(*a*) declaring that it is proposed to constitute such land a reserved forest;

(*b*) specifying the limits of such forest; and

(*c*) appointing an officer (hereinafter called "the forest settlement officer") to inquire into and determine the existence, nature, and extent of any rights alleged to exist in favor of any person in or over any land comprised within such limits, or in or over any forest-produce, and to deal with the same as provided in this chapter.

*Explanation* 1.—For the purpose of clause (*b*) of this section, it shall be sufficient to describe the limits of the forest by roads, rivers, ridges, or other well-known or readily intelligible boundaries.

The officer appointed under clause (*c*) of this section shall ordinarily be a person not holding any forest-office except that of forest settlement officer.

Nothing in this section shall prevent the Local Government from appointing any number of officers not exceeding three, not more than one of whom shall be a person holding any forest-office except as aforesaid, to perform the duties of a forest settlement officer under this Act.

Bar of accrual of forest-rights.

5. During the interval between the publication of such notification and the date fixed by the notification under section nineteen, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by or on behalf of Government or some person in whom such right was vested when the former notification was issued; and no fresh clearings for cultivation or for any other purpose shall be made in such land.

Proclamation by forest settlement officer.

6. When a notification has been issued under section four, the forest settlement officer shall publish in the language of the country, in every town and village in the neighbourhood of the land comprised therein, a proclamation—

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(*a*) specifying the limits of the proposed forest ;

(*b*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest ; and

(*c*) fixing a period of not less than three months from the date of such proclamation, and requiring every person claiming any right mentioned in section four or five either to present to such officer within such period a written notice specifying, or to appear before him and state, the nature of such right and the amount and particulars of the compensation (if any) claimed in respect thereof.

Inquiry by forest settlement officer.

**7.** The forest settlement officer shall take down in writing all statements made under section six, and shall, at some convenient place, enquire into all claims duly preferred under that section, and the existence of any rights mentioned in section four or five and not claimed under section six, so far as the same may be ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

Powers of forest settlement officer.

**8.** For the purposes of such enquiry, the forest settlement officer may exercise the following powers, that is to say :

(*a*) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate, and make a map of the same ; and

(*b*) the powers of a Civil Court in the trial of suits.

Extinction of rights.

**9.** Rights in respect of which no claim has been preferred under section six, and of the existence of which no knowledge has been acquired by enquiry under section seven, shall be extinguished, unless before the notification under section nineteen is published the person claiming them satisfies the forest settlement officer that he had sufficient cause for not preferring such claim within the period fixed under section six.

Power to acquire land over which right is claimed.

**10.** In the case of a claim to a right in or over any land, other than a right of way or pasture, or to forest-produce or a watercourse, the forest settlement officer shall pass an order admitting or rejecting the same in whole or in part.

If such claim is admitted in whole or in part, the forest settlement officer, shall either—

(1) exclude such land from the limits of the proposed forest ; or

(2) come to an agreement with the owner thereof for the surrender of his rights ; or

(3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870.

For the purpose of so acquiring such land—

(*a*) the forest settlement officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870 :

(*b*) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section nine of that Act :

(*c*) the provisions of the preceding sections of that Act shall be deemed to have been complied with ; and

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(*d*) the Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.

Order on claims to rights of pasture or to forest-produce.

11. In the case of a claim to rights of pasture or to forest-produce, the forest settlement officer shall pass an order admitting or rejecting the same in whole or in part.

Record to be made by forest settlement officer.

12. The forest settlement officer, when passing any order under section eleven, shall record, so far as may be practicable,—

(*a*) the name, father's name, caste, residence and occupation of the person claiming the right;

(*b*) the designation, position, and area of all fields or groups of fields (if any), in respect of which the exercise of such rights is claimed.

Record where he admits claim.

13. If the forest settlement officer admits in whole or in part any claim under section eleven, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted, the quantity of timber and other forest-produce which he is from time to time authorized to take or receive, or such other particulars as the case may require. He shall also record whether the timber or other forest-produce obtained by the exercise of the rights claimed may be sold or bartered.

Exercise of rights admitted.

14. After making such record, the forest settlement officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the claim is made, pass such orders as will ensure the continued exercise of the rights so admitted. For this purpose, the forest settlement officer may—

(*a*) set out some other forest-tract of sufficient extent, and in a locality convenient for the purpose of such claimants, and record an order conferring upon them a right of pasture or to forest-produce (as the case may be) to the extent so admitted; or

(*b*) so alter the limits of the proposed forest as to exclude forest-land of sufficient extent, and in a locality reasonably convenient, for the purposes of the claimants; or

(*c*) record an order, continuing to such claimants a right of pasture or to forest-produce (as the case may be), to the extent so admitted, at such seasons, within such portions of the proposed forest, and under such rules as may from time to time be prescribed by the Local Government.

Commutation of rights.

15. In case the forest settlement officer finds it impossible, having due regard to the maintenance of the reserved forest, to make such settlement under section fourteen as shall ensure the continued exercise of the said rights to the extent so admitted, he shall (subject to such rules as the Local Government may from time to time prescribe in this behalf) commute such rights, either by the payment to such persons of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he thinks fit.

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Appeal from order passed under Section 10, 11, 14 or 15.

16. Any person who has made a claim under this Act, or any forest-officer or other person generally or specially empowered by the Local Government in this behalf, may within three months from the date of the order passed on such claim by the forest settlement officer under section ten, eleven, fourteen or fifteen, present an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Collector or Deputy Commissioner, as the Local Government may from time to time, by notification in the local official Gazette, appoint by name, or as holding an office, to hear appeals from such orders :

Provided that if the Local Government establishes (as it is hereby empowered to do) a Court (hereinafter called the Forest—Court) composed of three persons to be appointed by the Local Government, such appeals shall be presented to such Court.

NOTES.—(*a*). In continuation of *Punjab Government Gazette* Notification No. 131 F., dated 4th April 1884, the Hon'ble the Lieutenant-Governor is pleased, in exercise of the authority vested in him by Section 16 of the Indian Forest Act, 1878, to appoint the Commissioner of Delhi, for the time being, to hear appeals from the orders of the Forest Settlement Officer of the Hissar District. (*Notification No.* 15, *dated* 21*st January* 1887, *Punjab Gazette of* 27*th idem, Part I, p.* 25).

(*b*). In continuation of *Punjab Government Gazette* Notification No. 322, dated the 1st August 1883, the Hon'ble the Lieutenant-Governor is pleased, in exercise of the authority vested in him by Section 16 of the Indian Forest Act, 1878, to appoint the Commissioner of Rawalpindi for the time being to hear appeals from the orders of the Forest Settlement Officer of the Gujrat District. (*No.* 30, *dated* 2*nd February* 1887, *Punjab Gazette of* 3*rd idem, Part I, p.* 33)

Appeal under Section 16.

17. Every appeal under section sixteen shall be made by petition in writing, and may be delivered to the forest settlement officer, who shall forward it without delay to the authority competent to hear the same.

If the appeal be to an officer appointed under section sixteen, it shall be heard in the manner prescribed for the time being for the hearing of appeals in matters relating to land-revenue.

If the appeal be to the Forest-Court, the Court shall fix a day and a convenient place in the neighbourhood of the proposed forest for hearing the appeal, and shall give notice thereof to the parties, and shall hear such appeal accordingly.

The order passed thereon by such officer or Court, or by the majority of the members of such Court, shall be final, subject to revision by the Local Government.

Pleaders.

18. The Local Government, or any person who has made a claim under this Act, may appoint any person to appear, plead and act on its or his behalf before the forest settlement officer or the appellate officer or Court, in the course of any inquiry or appeal under this Act.

Notification declaring forest reserved.

19. When the following events have occurred (namely),

(*a*) the period fixed under section six for preferring claims has lapsed, and all claims (if any) made within such period have been disposed of by the forest settlement officer ; and

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(*b*) if such claims have been made, and the period limited by section sixteen for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate officer or Court ; and

(*c*) all lands (if any) to be included in the proposed forest, which the forest settlement officer has, under section ten, elected to acquire under the Land Acquisition Act, 1870, have become vested in the Government under section sixteen of that Act.

the Local Government may publish a notification in the local official Gazette specifying definitely, according to boundary-marks erected or otherwise, the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date fixed by such notification. From the date so fixed, such forest shall be deemed to be a reserved forest.

NOTE.—See Note (*a*) at the end of the Act.

Publication of translation of such notification in neighbourhood of forest.

**20.** The forest-officer shall, before the date fixed by such notification, cause a translation thereof into the language of the country to be published in every town and village in the neighbourhood of the forest.

Power to revise arrangement made under Section 14 or 17.

**21.** The Local Government may, within five years from the publication of any notification under section nineteen, revise any arrangement made under section fourteen or seventeen, and may, for this purpose, rescind or modify any order made under section fourteen or seventeen, and direct that any one of the proceedings specified in section fourteen be taken in lieu of any other of such proceedings, or that the rights admitted under section eleven be commuted under section fifteen.

No right acquired over reserved forest, except as here provided.

**22.** No right of any description shall be acquired in or over a reserved forest, except by succession or under a grant or contract in writing made by or on behalf of the Government or of some person in whom such right was vested when the notification under section nineteen was issued.

Rights not to be alienated without sanction.

**23.** Notwithstanding anything contained in section twenty-two, no right continued under section fourteen, clause (*c*), shall be alienated by way of grant, sale, lease, mortgage, or otherwise without the sanction of the Local Government : provided that when any such right is appendant to any land or house, it may be sold or otherwise alienated with such land or house. No timber or other forest-produce obtained in exercise of any such right shall be sold or bartered except to such extent as may have been admitted in the order recorded under section thirteen.

Power to stop ways and water-courses in reserved forests.

**24.** The forest-officer may from time to time, with the previous sanction of the Local Government or of any officer duly authorized in that behalf, stop any public or private way or water-course in a reserved forest : provided that a substitute for the way or water-course so stopped, which the Local Government deems to be reasonably convenient, already exists, or has been provided or constructed by the forest-officer in lieu thereof.

Acts prohibited in such forest.

**25.** Any person who—

(*a*) makes any fresh clearing prohibited by section five, or

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(*b*) sets fire to a reserved forest, or kindles any fire in such manner as to endanger the same ;

or who, in a reserved forest,—

(*c*) kindles, keeps, or carries any fire except at such seasons as the forest-officer may from time to time notifiy in this behalf ;

(*d*) trespasses or pastures cattle or permits cattle to trespass ;

(*e*) causes any damage by negligence in felling any tree or cutting or dragging any timber ;

(*f*) fells, girdles, lops, taps, or burns any tree, or strips-off the bark or leaves from, or otherwise damages the same ;

(*g*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce ;

(*h*) clears or breaks up any land for cultivation, or any other purpose ; or

(*i*) in contravention of any rules which the Local Government may from time to time prescribe, kills or catches elephants, hunts, shoots, fishes, poisons water, or sets traps or snares ;

shall be punished with imprisonment for a term which may extend to six months, or with fine not exceeding five hundred rupees or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

Nothing in this section shall be deemed to prohibit

(*a*) any act done by permission in writing of the forest-officer, or under any rule made by the Local Government : or

(*b*) the exercise of any right continued under section fourteen, clause (*c*), or created by grant or contract in writing made by or on behalf of Government under section twenty-two.

Whenever fire is caused wilfully or by gross negligence in a reserved forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

NOTE.—For Rules under the 1st clause of this section see Note (*d*).

Power to declare forest no longer reserved.

**26.** The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, direct that, from a date fixed by such notification, any forest or any portion thereof reserved under this Act shall case to be a reserved forest. From the date so fixed, such forest or portion shall cease to be reserved ; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

NOTE.—For instructions in proceedings under this Chapter see Note (*n*) at end of Act.

## CHAPTER III.

### OF VILLAGE-FORESTS.

Formation of village forests.

**27.** The Local Government may, from time to time, assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest, and may cancel such assignment. All forests so assigned shall be called village-forests. The Local Government may, from time to time, make

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rules for regulating the management of village forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce, or pasture, and their duties for the protection and improvement of such forest. All provisions of this Act relating to reserved forests shall (so far as they are consistent with the rules so made) apply to village-forests.

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## CHAPTER IV.

### Of Protected Forests.

"Protected forests."

**28.** The Local Government may, from time to time, by notification in the local official Gazette, declare the provisions of this chapter applicable to any forest-land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled.

The forest-land and waste-lands comprised in any such notification shall be called a "protected forest." No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been enquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved.

Provided that, if in the case of any forest-land or waste-land, the Local Government thinks that such enquiry and record are necessary, but that they will occupy such length of time as that the rights of Government will in the meantime be endangered, the Local Government may (pending such enquiry and record) declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

NOTE.—See Note (*b*) at end of Act.

Power to issue notification—

**29.** The Local Government may, from time to time, by notification in the local official Gazette,—

reserving trees,

(*a*) declare any class of trees in a protected forest, or any trees in any such forest, to be reserved from a date fixed by such notification;

closing forest,

(*b*) declare that a portion of such forest be closed for such term not exceeding twenty years as the Local Government thinks fit, and that the rights of private persons (if any) over such portion shall be suspended during such term: provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the rights suspended in the portion so closed;

prohibiting collection of forest-produce, &c., breaking up or clearing of land.

(*c*) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal, of any forest-produce, in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle, or for any other purpose, any land in any such forest; and

(*d*) alter or cancel such declaration or prohibition.

NOTE.—See Note (*c*) at end of Act.

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Publication of translation of such notification in neighbourhood.

30. The Collector or Deputy Commissioner of the district shall cause a translation into the language of the district, of every notification issued under section twenty-nine, to be fixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification.

Power to make rules for protected forests.

31. The Local Government may from time to time make rules to regulate the following matters :—

(*a*) the cutting, sawing, conversion, and removal of trees and timber, and the collection, manufacture, and removal of forest-produce, from protected forests ;

(*b*) the granting of licenses to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber, or other forest-produce for their own use, and the production and return of such licenses by such persons ;

(*c*) the granting of licenses to persons felling or removing trees or timber or other forest-produce from such forests for the purposes of trade, and the production and return of such licenses by such persons ;

(*d*) the payments ( if any) to be made by the persons mentioned in clauses (*b*) and (*c*) of this section, for permission to cut such trees, or to collect and remove such timber or other forest-produce ;

(*e*) the other payments, if any, to be made by them in respect of such trees, timber, and produce, and the places where such payments shall be made ;

(*f*) the examination of forest-produce passing out of such forests ;

(*g*) the clearing and breaking up of land for cultivation or other purposes in such forests ;

(*h*) the protection from fire of timber lying in such forests and of trees reserved under section twenty-nine ;

(*i*) the cutting of grass and pasturing of cattle in such forests ;

(*j*) killing or catching elephants, hunting, shooting, fishing, poisoning water, and setting traps or snares in such forests ;

(*k*) the protection and management of any portion of a forest closed under section twenty-nine ;

(*l*) the exercise of rights referred to in section twenty-eight.

NOTE.—See Note (*f*) at the end of the Act.

Penalties for acts in contravention of notification under Section 29.

32. Any person who commits any of the following offences :—

(*a*) fells, girdles, lops, taps, or burns any tree reserved under section twenty-nine, or strips off the bark or leaves from, or otherwise damages any such tree ;

(*b*) contrary to any prohibition under section twenty-nine, quarries any stone, or burns any lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest-produce ;

(*c*) contrary to any prohibition under section twenty-nine, breaks up or clears for cultivation or any other purpose any land in any protected forest ;

(*d*) sets fire to such forest, or kindles a fire without taking all reasonable precautions to prevent its spreading to any trees reserved under section

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twenty-nine, whether standing, fallen, or felled, or to any closed portion of such forest ;

(*e*) leaves burning any fire kindled by him in the vicinity of any such trees or closed portion ;

(*f*) fells any tree or drags any timber so as to damage any tree reserved as aforesaid ;

(*g*) permits cattle to damage any such tree ;

(*h*) infringes any rule made under section thirty-one ;

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Nothing in this chapter to prohibit acts done in certain cases.

**33.** Nothing in this chapter shall be deemed to prohibit any act done with the permission in writing of the forest-officer, or in accordance with rules made under section thirty-one, or (except as regards any portion of a forest closed under section twenty-nine) in the exercise of any right recorded under section twenty-eight.

## CHAPTER V.

### Forests under Conservancy Administration when this Act comes into force.

Forests under conservancy administration when this Act comes into force.

**34.** Within twelve months from the date on which this Act comes into force in the territories administered by any Local Government, such Government shall, after consideration of the rights of the Government and private persons in all forest-lands or waste-lands then under its executive control for purposes of forest conservancy, determine which of such lands (if any) can, according to justice, equity and good conscience, be classed as reserved forests or protected forests under this Act, and declare, by notification in the local official Gazette, any lands so classed to be reserved or protected forests, as the case may be :

Provided that such declaration shall not affect any rights of the Government or private persons to or over any land or forest-produce in any such forest, which have, previous to the date of such declaration, been enquired into, settled, and recorded in a manner which the Local Government thinks sufficient :

Provided also that if any such rights have not on such date been so enquired into, settled, and recorded, the Local Government shall direct that the same shall be enquired into, settled, and recorded in the manner provided by this Act for reserved or protected forests, as the case may be ; and until such enquiry, settlement, and record have been completed, no such declaration shall abridge or affect such rights.

## CHAPTER VI.

### Of the Control over Forests and Lands not being the Property of Government.

Protection of forests for special purposes.

**35.** The Local Government may, from time to time, by notification in the local official Gazette, regulate or prohibit in any forest or waste-land—

(*a*) the breaking up or clearing of land for cultivation ;

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(*b*) the pasturing of cattle ;

(*c*) the firing or clearing of the vegetation ;

when such regulation or prohibition appears necessary for any of the following purposes :—

*First.*—For protection against storms, winds, rolling stones, floods and avalanches ;

*Second.*—For the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts, the prevention of landslips and of the formation of ravines and torrents, and the protection of land against erosion, or the deposit thereon of sand, stones, or gravel ;

*Third.*—For the maintenance of a water-supply in springs, rivers, and tanks ;

*Fourth.*—For the protection of roads, bridges, railways, and other lines of communication ;

*Fifth.*—For the preservation of the public health ;

and may alter or cancel such notification.

The Local Government may, for any such purpose, construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit :

Provided that no such notification shall be made or work begun until after the issue of a notice to the owner of such forest or land, calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, and until his objections (if any) and any evidence he may produce in support of the same have been heard by an officer duly appointed in that behalf, and have been considered by the Local Government.

Power to assume management of forests.

**36.** In case of neglect of, or wilful disobedience to, any regulation or prohibition under section thirty-five, or if the purposes of any work to be constructed under that section so require, the Local Government may after notice in writing to the owner of such forest or land, and after considering his objections (if any), place the same under the control of a forest officer, and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land.

The nett profits (if any) arising from the management of such forest or land shall be paid to the said proprietor.

Expropriation of forests in certain cases.

**37.** In any case under this chapter in which the Local Government considers that, in lieu of placing the forest or land under the control of a forest officer, the same should be acquired for public purposes, the Local Government may proceed to acquire it in the manner prescribed by the Land Acquisition Act, 1870.

The owner of any forest or land comprised in any notification under section thirty-five may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly.

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38. The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof, may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector or Deputy Commissioner their desire—

Protection of forests at request of owners.

(*a*) that such land be mananged on their behalf by the forest-officer as a reserved or a protected forest on such terms as may be mutually agreed upon ; or

(*b*) that all or any of the provisions of this Act be applied to such land.

In either case, the Local Government may, by notification in the local official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

Any such notification may be altered or cancelled by a like notification.

## CHAPTER VII.

### Of the Duty on Timber.

39. The Local Government, with the previous sanction of the Governor-General in Council, may levy a duty in such manner at such places, and at such rates, as it may, from time to time, prescribe by notification in the local official Gazette on all timber—

Power to impose duty on timber.

(*a*) which is produced in British India, and in respect of which the Government has any right ;

(*b*) which is brought from any place beyond the frontier of British India.

In every case in which such duty is directed to be levied *advalorem*, the Local Government may, with the like sanction, from time to time fix, by like notification, the value on which such duty shall be assessed.

Power to fix value for *advalorem* duty.

All duties on timber, which, at the time when this Act comes into force in any territory, are levied therein under the authority of the Local Government, shall be deemed to be and to have been duly levied under the provisions of this Act.

40. Nothing in this chapter shall be deemed to limit the amount (if any) chargeable as purchase-money or royalty on any timber or other forest-produce, although the same is levied on such timber or produce while in transit, in the same manner as duty is levied.

Limit not to apply to purchase-money or royalty.

## CHAPTER VIII.

### Of the Control of Timber and other Forest-Produce in Transit.

41. The control of all rivers and their banks as regards the floating of timber as well as the control of all timber and other forest-produce in transit by land or water, is vested in the Local Government, and it may from time to time make rules to regulate the transit of all timber and other forest-produce.

Power to make rules to regulate transit of forest-produce.

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Such rules may (among other matters)—

(*a*) prescribe the routes by which alone timber and other forest-produce may be imported, exported, or moved into, from or within, British India;

(*b*) prohibit the import and export or moving of such timber or other produce without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(*c*) provide for the issue, production, and return of such passes and for the payment of fees therefor;

(*d*) provide for the stoppage, reporting, examination, and marking of timber or other forest-produce in transit, in respect of which there is reason to believe that any money is payable to Government on account of the price thereof, or on account of any duty, fee, royalty, or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark;

(*e*) provide for the establishment and regulation of depôts to which such timber or other produce shall be taken by those in charge of it for examination or for the payment of such money, or in order that such marks may be affixed to it; and the conditions under which such timber or other produce shall be brought to, stored at, and removed from, such depôt;

(*f*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce, and the throwing of grass, brushwood, branches, and leaves into any such river, or any act which may cause such river to be closed or obstructed;

(*g*) provide for the prevention and removal of any obstruction of the channel or banks of any such river; and for recovering the cost of such prevention or removal from the person whose acts or negligence necessitated the same;

(*h*) prohibit absolutely or subject to conditions, within specified local limits, the establishment of saw-pits, the converting, cutting, burning, concealing, or marking of timber, the altering or effacing of any marks on the same and the possession or carrying of marking-hammers or other implements used for marking timber;

(*i*) regulate the use of property-marks for timber, and the registration of such marks; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

NOTE.—For Rules under this section see Note (*h*) at the end of the Act.

Penalty for breach of rule made under Section 41.

**42.** The Local Government may by such rules prescribe as penalties for the infringement thereof imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

Double penalties may be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority, or if the offender has been previously convicted of a like offence.

Government and forest-officers not liable for damage to forest-property at depôt.

**43.** The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depôt established under a rule made under section forty-one, or while detained elsewhere for the purposes of this Act; and no forest-officer shall be responsible for any such loss or damage unless he causes such loss or damage negligently, maliciously or fraudulently.

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All persons bound to aid in case of accident at depôt.

**44.** In cases of any accident or emergency involving danger to any property at any such depôt, every person employed at such depôt, whether by the Government or by any private person, shall render assistance to any forest-officer or police-officer demanding his aid in averting such danger and securing such property from damage or loss.

## CHAPTER IX.

### Of the Collection of Drift and Stranded Timber.

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

**45.** All timber found adrift, beached, stranded, or sunk;

all wood or timber bearing marks which have not been registered under section forty-one, or on which the marks have been obliterated, altered, or defaced by fire or otherwise, and,

in such areas as the Local Government directs, all unmarked wood and timber,

shall be deemed to be the property of Government unless and until any person establishes his right and title thereto, as provided in this chapter.

Such timber may be collected by any forest-officer or other person entitled to collect the same by virtue of any rule made under section fifty-one, and may be brought to such depôts as the forest-officer may, from time to time, notify as depôts for the reception of drift-timber.

The Local Government may, by notification in the local official Gazette, exempt any class of timber from the provisions of this section, and withdraw such exemption.

Notes.—(*a*). Under Section 45 of Act VII of 1878, the Hon'ble the Lieutenant-Governor is pleased to direct that the following shall be the areas within which all unmarked wood and timber shall be deemed to be the property of Government, until, and unless, any person establishes his right and title thereto :—

The Jhelum and its tributaries within British territory ;

| | | |
|---|---|---|
| The Chenab | ditto | ditto ; |
| The Ravi | ditto | ditto ; |
| The Beas | ditto | ditto ; |
| The Sutlej | ditto | ditto ; |

including an area within a direct distance of five miles from either bank of the main stream of the said rivers, taking that stream at its cold season level.—(*Notification No.* 222 *F.*, *dated 9th May* 1879, *Punjab Gazette of* 15*th idem*).

(*b*). In continuation of the Punjab Government Gazette Notification No. 222F., dated 9th May 1879, and under the provisions of Section 45 of Act VII of 1878, the Hon'ble the Lieutenant Governor is pleased to direct that the river Indus and its tributaries within British territory, including an area within a direct distance of 5 miles from either bank of the main stream of these rivers, taken at its cold season level, shall be added to the areas within which all unmarked wood and timber is deemed to be the property of Government, until and unless any person establishes his right and title thereto.—(*Notification No.* 188 *F.*, *dated 9th April* 181, *Punjab Gazette of* 14*th idem*).

Notice to claimants of drift-timber.

**46.** Public notice shall, from time to time, be given by the forest-officer of timber collected under section forty-five. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim.

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Procedure on claim preferred to such timber.

47. When any such statement is presented as aforesaid, the forest-officer may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

If such timber is claimed by more than one person, the forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending the receipt of an order from such Court for its disposal.

On rejection of claim to such timber, claimant may institute suit.

Any person whose claim has been rejected under this section may within two months from the date of such rejection institute a suit to recover possession of the timber claimed by him ; but no person shall recover any compensation or costs against the Government, or against any forest-officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section. No such timber shall be subject to process of any Civil, Criminal, or Revenue Court until it has been delivered, or a suit has been brought, as provided in the section.

Disposal of unclaimed timber.

48. If no such statement is presented as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under section forty-six, or, on such claim having been so preferred by him and having been rejected, omits to imstitute a suit to recover possession of such timber within the further period limited by section forty-seven, the ownership of such timber shall vest in the Government, or when such timber has been delivered to another person under section forty-seven, in such other person, free from all encumbrances.

Government and its officers not liable for damage to such timber.

49. The Government shall not be responsible for any loss or damage which may occur in respect of any timber collected under section forty-five, and no forest-officer shall be responsible for any such loss or damage, unless he causes such loss or damage negligently, maliciously, or fraudulently.

Payments to be made by claimant before timber is delivered to him.

50. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the forest-officer or other person entitled to receive it such sum on account thereof as may be due under any rule made in pursuance of section fifty-one.

Power to make rules and prescribe penalties.

51. The Local Government may from time to time make rules to regulate the following matters (namely):—

(*a*) the salving, collection, and disposal of all timber mentioned in section forty-five ;

(*b*) the use and registration of boats used in salving and collecting timber;

(*c*) the amounts to be paid for salving, collecting, moving, storing, and disposing of such timber ;

(*d*) the use and registration of hammers and other instruments to be used for marking such timber

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The Local Government may from time to time prescribe, as penalties for the infringement of any rules made under this section, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

NOTE.—For Rules under this section see Note (*i*).

## CHAPTER X.

### PENALTIES AND PROCEDURE.

Seizure of property liable to confiscation.

**52.** When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce together with all tools, boats, carts, and cattle used in committing such offence, may be seized by any forest-officer or police-officer.

Application for confiscation.

Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.

Provided that when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Procedure thereupon.

**53.** Upon the receipt of any such report the Magistrate shall, with all convenient dispatch, take such measures as may be necessary for the arrest and trial of the offender and disposal of the property according to law.

Forest-produce, tools, &c., when liable to confiscation.

**54.** All timber or forest-produce which is not the property of Government and in respect of which a forest-offence has been committed, and all tools, boats, carts, and cattle used in committing any forest-offence, shall be liable to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

**55.** When the trial of any forest-offence is concluded, any forest-produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken charge of by a forest-officer, and in any other case may be disposed of in such manner as the Court may direct.

Procedure when offender not known, or cannot be found.

**56.** When the offender is not known, or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the forest-officer, or to be made over to the person whom he deems to be entitled to the same:

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce, in support of his claim.

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Procedure as to perishable property seized under Section 52.

57. The Magistrate may notwithstanding anything hereinbefore contained, direct the sale of any property seized under section fifty-two and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold.

Appeal from orders under Sections 54, 55 and 56.

58. The officer who made the seizure under section fifty-two or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section fifty-four, fifty-five or fifty-six, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Property when to vest in Government.

59. When an order for the confiscation of any property has been passed under section fifty-four or fifty-six, as the case may be, and the period limited by section fifty-eight for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances.

Saving of power to release property seized.

60. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the Local Government from directing at any time the immediate release of any property seized under section fifty two.

Punishment for wrongful seizure.

61. Any forest-officer or police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary-marks.

62. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by forest-officers to indicate that such timber or tree is the property of the Government or of some person, or that it may lawfully be cut or removed by some person ; or

(*b*) alters, defaces, or obliterates any such mark placed on a tree or on timber by or under the authority of a forest-officer ; or

(*c*) alters, moves, destroys, or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Power to arrest without warrant.

63. Any forest-officer or police-officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards. Every officer making an arrest under this section shall without unnecessary delay take or send the person arrested before the Magistrate having jurisdiction in the case.

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Nothing in this section shall be deemed to authorize such arrest for any act which is an offence under Chapter IV of this Act, unless such act has been prohibited under section twenty-nine, clause (*c*).

Power to prevent commission of offence.

**64.** Every forest-officer and police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Power to try offences summarily.

**65.** The Magistrate of the District, and any Magistrate of the first class specially empowered in this behalf by the Local Government, may try summarily, under the Code of Criminal Procedure, any forest-offence punishable only with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both.

Operation of other laws not barred.

**66.** Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by the rules made under this Act: Provided that no person shall be punished twice for the same offence.

Power to compound offences.

**67.** The Local Government may from time to time, by notification in the local official Gazette, empower any forest-officer by name, or as holding an office, to accept from any person against whom a reasonable suspicion exists that he has committed any forest-offence other than an offence under section sixty-one or section sixty-two a sum of money by way of compensation for any damage which may have been committed, and to release any property which has been seized as liable to confiscation on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken under this Act against such person or property; but nothing herein contained shall exempt such person from prosecution on the same facts under any other law for the time being in force.

NOTE.—See Note (*m*) at end of Act.

Presumption that forest-produce belongs to Government.

**68.** When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

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## CHAPTER XI.

### CATTLE-TRESPASS.

Cattle-trespass Act, 1871, to apply.

**69.** Cattle trespassing in a reserved forest, or in any portion of a protected forest which has been lawfully closed to grazing, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any forest-officer or police-officer.

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Power to alter fines fixed by that Act.

70. The Local Government may, from time to time, by notification in the local official Gazette, direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied for each head of cattle impounded under section sixty-nine of this Act, such fines as it thinks fit, but not exceeding the following, that is to say :—

| | |
|---|---|
| For each elephant ... ... ... ... ... ... | ten rupees. |
| For each buffalo or camel... ... ... ... ... .. | two ,, |
| For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer ... ... ... ... ... ... ... | one rupee. |
| For each calf, ass, pig, ram, ewe, sheep, lamb, goat or kid ... ... | eight annas. |

## CHAPTER XII.

### Of Forest-Officers.

Local Government may invest forest-officers with certain powers.

71. The Local Government may invest any forest-officer by name, or as holding any office, with the following powers, that is to say:—

(*a*) power to enter upon any land and to survey, demarcate, and make a map of the same ;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents ;

(*c*) power to issue a search-warrant under the Code of Criminal Procedure;

(*d*) power to hold an enquiry into forest-offences, and, in the course of such enquiry, to receive and record evidence.

Any evidence recorded under clause (*d*) of this section shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person.

Forest-officers deemed public servants.

72. All forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Indemnity for acts done in good faith.

73. No suit shall lie against any public servant for anything done by him in good faith under this Act.

Forest-officers not to trade.

74. Except with the permission in writing of the Local Government, no forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in British or Foreign territory.

## CHAPTER XIII.

### Subsidiary Rules.

Additional powers to make rules.

75. The Local Government may from time to time make rules—

(*a*) to prescribe and limit the powers and duties of any forest-officer under this Act ;

(*b*) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscations under this Act ;

(*c*) for the preservation, reproduction, and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons ; and

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(*d*) generally to carry out the provisions of this Act.

NOTE.—For Rules under this section see Notes (*g*) and (*j*) at the end of the Act.

Penalties for breach of rules.

**76.** Any person breaking any rule under this Act, for the breach of which no special penalty is provided, shall be punished with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

Rules when to have force of law.

**77.** All rules made by the Local Government under this Act shall be published in the local official Gazette, and shall thereupon, so far as they are consistent with this Act, have the force of law: Provided that no rule made under section twenty-seven, thirty-one, or forty-one shall be so published without the previous sanction of the Governor-General in Council.

## CHAPTER XIV.

### MISCELLANEOUS.

Persons bound to assist forest-officer and police-officers.

**78.** Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and

every person who is employed by any such person in such forest, and

every person in any village contiguous to such forest who is employed by the Government, or who receives emoluments from the Government for services to be performed to the community,

shall be bound to furnish without unnecessary delay to the nearest forest-officer or police-officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall assist any forest-officer or police-officer demanding his aid—

(*a*) in extinguishing any fire occurring in such forest;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest;

(*c*) in preventing the commission in such forest of any forest-offence; and

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Management of forests the joint property of Government and other persons.

**79.** If the Government and any person be jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Local Government may, from time to time, either—

(*a*) undertake the management of such forest, waste-land, or produce, accounting to such person for his interest in the same; or

(*b*) issue such regulations for the management of the forest, waste-land, or produce by the person so jointly interested, as it deems necessary for the management thereof and the interests of all parties therein.

When the Local Government undertakes, under clause (*a*) of this section, the management of any forest, waste-land, or produce, it may, from time to time, by notification in the local official Gazette, declare that any of the provisions contained in Chapters II and IV of this Act shall apply to such forest, waste-land, or produce, and thereupon such provisions shall apply accordingly.

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Failure to perform service for which a share in produce of Government forest is enjoyed.

**80.** If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights, or to any part of the forest-produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest, such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the Local Government that such service is no longer so performed: Provided that no such share shall be confiscated until the person entitled thereto, and the evidence (if any) which he may produce in proof of the due performance of such service, have been heard by an officer duly appointed in that behalf by the local Government.

Recovery of money due to Government.

**81.** All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land-revenue.

NOTE.—As regards realization of forest income, see Note (*k*) at the end of the Act.

Lien on forest-produce for such money.

**82.** When any such money is payable for or in respect of any forest-produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a forest-officer until such amount has been paid.

Power to sell such produce.

If such amount is not paid when due, the forest-officer may sell such produce by public auction and the proceeds of the sale shall be applied first in discharging such amount. The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto shall be forfeited to Her Majesty.

Land required under this Act to be deemed to be needed for a public purpose under Land Acquisition Act.

**83.** Whenever it appears to the Local Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section four.

## SCHEDULE.

(*See section* 1).

ENACTMENTS REPEALED.

| Number and year of Act or Regulation. | Title. | Extent of repeal. |
|---|---|---|
| Act VII of 1865 ... | An Act to give effect to Rules for the management and preservation of Government forests. | So much as has not been repealed. |
| Act VII of 1869 ... | An Act to give validity to certain Rules relating to forests in British Burma. | The whole. |
| Act XIII of 1873 ... | An Act to amend the law relating to timber floated down the rivers of British Burma. | So much as has not been repealed. |
| Regulation IX of 1874 ... | The Arakan Hill District Laws Regulation, 1874. | So far as it relates to Acts VII of 1865 and VII of 1869. |

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NOTES.—(*a*). Forests declared to be reserved under Section 19 :—

| District. | Punjab Government Notification. |
|---|---|
| Rawalpindi ... ... | No. 95F., dated 1st March 1879, *Punjab Gazette* of 6th idem. |
| | No. 431, dated 27th October 1886, *Punjab Gazette* of 28th idem, page 592. |
| | No. 257, dated 10th August 1887, *Punjab Gazette* of 11th idem, page 476. |
| Gujrat ... ... ... | No. 109F., dated 6th March 1879, *Punjab Gazette* of same date. |
| | No. 284, dated 3rd July 1882, *Punjab Gazette* of 6th idem, *modified* by No 80, dated 17th February 1886, *Punjab Gazette* of 18th idem, page 52. |
| Hoshiarpur ... ... | No. 110F., dated 6th March 1879, *Punjab Gazette* of same date, and No. 113 F, of same date, *modified* by No. 444, dated 15th October 1884, *Punjab Gazette* of 16th idem, page 965. |
| Kangra ... ... ... | No. 111F., and 112 F., dated 6th March 1879, *Punjab Gazette* of same date, *modified* by No. 17, dated 23rd January 1885, *Punjab Gazette* of 29th idem, page 44. |
| Amritsar .. ... ... | No. 113F., dated 6th March 1879, *Punjab Gazette* of same date. |
| | No. 115, dated 6th March 1879, *Punjab Gazette* of same date. |
| Gurdaspur ... ... | No. 113F., dated 6th March 1879, *Punjab Gazette* of same date. |
| Mooltan ... ... ... | No. 114F., dated 6th March 1879, *Punjab Gazette* of same date. |
| | No. 289F., dated 22nd July 1880, *Punjab Gazette* of 29th idem. |
| | No. 353F., dated 30th August 1880, *Punjab Gazette* of 2nd Sept. |
| | No. 55F., dated 7th February 1881, *Punjab Gazette* of 10th idem. |
| | No. 184F., dated 7th April 1881, *Punjab Gazette* of same date. |
| | No. 274F., dated 6th June 1881, *Punjab Gazette* of 9th June. |
| | No. 296, dated 6th June 1888, *Punjab Gazette* of 7th idem. |
| | No. 328, dated 26th June 1888, *Punjab Gazette* of 28th idem. |
| | No. 523, dated 14th Novr. 1888, *Punjab Gazette* of 15th idem, p. 729, |
| Gujranwala ... ... | No. 300 F., dated 24th July 1880, *Punjab Gazette* of 29th idem. |
| | No. 115, dated 6th March 1879, *Punjab Gazette* of same date. |
| | No. 1193 S., dated 3rd September 1885, *Punjab Gazette* of same date, page 668. |
| | No. 244, dated 9th June 1886, *Punjab Gazette* of 10th idem, page 326. |
| Jhelum ... ... ... | No. 359 F., dated 25th August 1881, *Punjab Gazette* of 1st Sept. |
| | No. 361, dated 21st August 1882, *Punjab Gazette* of 24th idem. |
| | Nos. 349, 350, dated 15th August 1883, *Punjab Gazette* of 16th idem, pp. 472, 473, *modified* by No. 432, dated 24th June 1885, *Punjab Gazette* of 25th idem, page 455. |
| Montgomery ... ... | No. 912 C., dated 25th September 1879, *Punjab Gazette* of 27th Nov. |
| | No. 402F., dated 22nd September 1881, *Punjab Gazette* of 29th idem. |
| Lahore ... ... ... | No. 115, dated 6th March, 1879, *Punjab Gazette* of same date, *modified* by No. 230, dated 13th July 1887, *Punjab Gazette* of 14th idem, page 362. |
| Jullundur ... ... ... | No. 115, dated 6th March 1879, *Punjab Gazette* of same date, *modified* by No. 201, dated 6th May 1886, *Punjab Gazette* of same date, page 271. |
| Ludhiana ... ... ... | No. 115, dated 6th March 1879, *Punjab Gazette* of same date. |
| Umballa ... ... ... | No. 115, dated 6th March 1879, *Punjab Gazette* of same date. |
| | No. 190, dated 28th April 1886, *Punjab Gazette* of 29th idem, page 248. |
| Simla ... ... ... | No. 175, dated 15th April 1885, *Punjab Gazette* of 16th idem, page 274. |
| Hissar ... ... ... | No. 393, dated 16th November 1887, *Punjab Gazette* of 17th idem page 607. |

(*b*). Protected Forests under Section 28 :—

| District. | Punjab Government Notification. |
|---|---|
| Rawalpindi ... ... | No. 95 F., dated 1st March 1879, *Punjab Gazette* of 6th idem. |
| | No. 63, dated 17th February 1887, *Punjab Gazette* of same date page 52. |
| Gujranwala ... ... | No. 345 F., dated 26th August 1880, *Punjab Gazette* of 2nd Sept. |
| | No. 1192 S., dated 3rd September 1885, *Punjab Gazette* of same date, page 667. |
| | No. 260, dated 10th August 1887, *Punjab Gazette* of 11th idem page 477. |

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(c). In supersession of *Punjab Government Gazette* Notification No 485, dated 4th November 1885, the Hon'ble the Lieutenant-Governor directs that the Executive Forest Charges of the Punjab be arranged hereafter as follows, the arrangement being adjusted as far as possible so as to correspond with the Executive Revenue arrangement of the Province :—

| Executive Forest Charges. | Comprising | | Revenue Commissionership to which attached. |
|---|---|---|---|
| | Revenue Districts. | Rivers. | |
| 1 Bashahr ... | The leased forests of Bashahr and Tahsils Kotgarh and Kot Khai of the Simla District | The Sutlej river from Rampur to Naila | Delhi |
| 2 Amballa ... | Jullundur, Ludhiana and Umballa, Subathu and Dagshai in the Simla District | The Sutlej from Naila to boundary of the Montgomery District | Delhi and Jullundur |
| 3 Kulu ... | Kulu Sub-division of the Kangra District | Beas from sources to the east boundary of the Mandi State | Jullundur |
| 4 Kangra ... | Kangra (except the Kulu Sub-division) and Hoshiarpur | Beas from the west boundary of the Mandi State to junction with Sutlej | Ditto |
| 5 Chamba ... | Gurdaspur District and leased forests of Chamba | Ravi from sources to border of Montgomery District so far as within British territory | Lahore |
| 6 Lahore ... | Lahore and Amritsar ... | ... | Ditto |
| 7 Montgomery ... | Montgomery ... | Sutlej and Ravi as far as included in the district | Ditto |
| 8 Mooltan ... | Mooltan, Muzaffargarh and Dera Ghazi Khan | Sutlej, Ravi, Chenab and Indus, so far as they are included within the Mooltan, Muzaffargarh and Dera Ghazi Khan Districts, and also the Chenab, in the Jhang District, as far as the Trimmu Depôt | Lahore and Derajat |
| 9 Chenab ... | Jhang, Gujranwala, Gujrat and Sialkot, Tahsils Bhera and Shahpur of the Shahpur District | Chenab, down to the Jhang Depôt in the Jhang District | Lahore and Rawalpindi |
| 10 Jhelum ... | Jhelum and Tahsil Khushab of the Shahpur District | Jhelum, from Saligram down to the Trimmu Depôt, and the portion of the Chenab between the Jhang and Trimmu Depots. | Rawalpindi |
| 11 Rawalpindi ... | Rawalpindi and Peshawar ... | Indus so far as it bounds the Rawalpindi District, and its tributaries in the district | Rawalpindi and Peshawar |
| 12 Hazara ... | Hazara ... | Indus within Hazara District, Jhelum where it bounds the Hazara and Rawalpindi Districts as far as Saligram and the Kunhar and Siran and Dorh Rivers ; also the Harroh River so far as it is in Hazara | Peshawar |

(*Notification No.* 412, *dated 4th October* 1886, *Punjab Gazette of 7th idem, Part I, p.* 566, *as amended by Nos.* 167, 172, *dated 27th and 28th March* 1888, *Punjab Gazette of 29th idem, Part I, p.* 356).

(d). The Hon'ble the Lieutenant-Governor is pleased to prescribe the following rules under Clause I, Section 25 of Act VII of 1878, the Indian Forest Act, regarding hunting and shooting in Reserved Forests :

I.—Hunting or shooting with elephants and with large parties of coolies or beaters is prohibited.

II.—Hunting or shooting between the 15th March and 15th September (both days inclusive) in each year is prohibited.

III.—The Conservator of Forests may declare and publicly notify any Reserved Forest or portion of such forest to be altogether closed for such periods as may be necessary, when it is desirable in his judgment to close such forest or portion of a forest.

IV.—The poisoning of water and the setting of snares and traps is prohibited.

V.—Subject to the above restrictions, hunting or shooting is permitted ; but nothing in this rule shall be taken to exempt any person from liability in respect of any offence by fire, injury to the forest or its produce, or other offence punishable by Section 25, Act VII of 1878.

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VI.—When not restricted by any existing right or lease of such right, fishing, otherwise than by nets, in any stream or other water is permitted in any forest not being a forest closed under the provisions of Rule III.

(*Punjab Government Notification No.* 203, *dated 2nd May* 1879, *Punjab Gazette of 8th idem*).

(*e*). In exercise of the power conferred on him by Section 29, clauses (*a*) and (*c*), of the Indian Forest Act, VII of 1878, the Hon'ble the Lieutenant-Governor is pleased to direct that in the Protected Forests of Tahsils Murree and Kahuta, in the Rawalpindi District, detailed in *Punjab Government Gazette* Notification No. 63, dated the 17th of February 1887—

(1) the following trees shall be reserved :

| | | | |
|---|---|---|---|
| Deodar, | Tun, | Rhin, | Shamshad, |
| Biar, | Kanjor, | Kain, | Imli, |
| Paludar, | Drawa, | Phulai, | Jhand, |
| Chir, | Sum, | Khair, | Siris, and |
| Akhrot, | Barrangi, | Kao, | Bamboos. |
| Tali, | Kalakat (wild cherry), | | |

(2) The quarrying of stone, the burning of lime and charcoal, the collection or subjection to any manufacturing process or removal of any forest produce, and the breaking up or clearing any land for cultivation, for building, for herding cattle, or for any other purpose, shall be prohibited.

This Notification shall have effect from the 1st day of April 1887.

(*Notification No.* 64, *dated* 17*th February* 1887, *Punjab Gazette of same date, Part I, p.* 54).

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(*f*). In the exercise of the power conferred on him by Section 31 of the Indian Forest Act, VII of 1878, the Hon'ble the Lieutenant-Governor, with the previous sanction of the Governor-General in Council, makes the following rules for the management of the Protected Forests of Tahsils Murree and Kahuta, in the Rawalpindi District, detailed in *Punjab Government Gazette* Notification No. 63, dated 17th February 1887 :—

RULES UNDER SECTION 31 FOR THE MANAGEMENT OF DEMARCATED PROTECTED FORESTS IN TAHSILS MURREE AND KAHUTA.

A.—*Cutting and Removal of Trees and Timber ; Collection and Removal of Forest Produce.*

The following trees only shall be lopped for fodder of cattle owned by right-holders :—

Rhin (*Quercus incana*).

Barungi (*Quercus dilatata*).

Baren (*Quercus annulata*).

Dhaman (*Grewia oppositifolia*).

Such loppings shall in no case be taken higher than two-thirds of the total height of the tree lopped. But no tree shall be lopped which is less than 16 feet high.

2. Grass may be cut, stacked or removed at any time during the year for the personal use of the right-holders.

3. Fallen dry wood and brushwood may be cut and removed by right-holders at any time but no "reserved" trees, however young, may be cut.

4. Wood of any kind, except deodar and *pinus excelsa* (biar), may be taken by right-holders, as required for agricultural implements free of charge, and no license need be applied for on this account.

5. Wood of any kind, except deodar and *pinus excelsa* (biar), may be taken by all persons free of charge and without license for graves and for the cremation of dead bodies.

B.—*Granting of Licenses to adjacent inhabitants for their own use, and the Production and Return of Licenses.*

6. No trees shall be cut, except on a license granted by the Forest Ranger, Deputy Conservator of Forests, or Deputy Commissioner. And a license to cut trees shall not authorize the cutting of any trees not already marked for this purpose.

7. A sufficient number of trees for the probable requirements of right-holders shall be marked by the Forest Rangers for felling every year, in the Kahuta Tahsil in December and January, and in the Murree Tahsil in March, April and May.

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8. Application for licenses to cut timber shall ordinarily be made to the Forest Ranger during the same months ; but, in cases of urgency, may be made at any other time.

9. In all cases in which the Forest Ranger refuses to grant a license to the applicant, a further application may be made to the Deputy Conservator of Forests or to the Deputy Commissioner.

10. In granting licenses to right-holders, the Deputy Commissioner and Forest Officers shall have regard to the following considerations :—

(i) Licenses shall be limited to the actual requirements of the right-holder for his own dwelling house and cattle sheds, the house and shed being reckoned according to those now ordinarily in use among the right-holders. The license shall not ordinarily give leave to fell more than three chir trees (or, where chir trees are not available, biar trees) with a proportionate quantity of small timber ; nor be granted oftener than once in five years.

(ii) License shall ordinarily be granted to a right-holder in the forest in which he has rights.

(iii) Applications for license to cut a larger number of trees, or for the grant of trees at shorter intervals than five years, or in a forest other than that in which the applicant has rights, shall be referred to the Deputy Conservator of Forests, who will pass such orders on each case as will suffice to meet the reasonable requirements and conveniences of the applicant as defined in the first sentence of clause 1 of this rule.

Period at which trees granted must be cut and removed.

11. Trees granted by the Forest Ranger during his annual tour in March, April or May must be cut and removed—

In Murree before the end of July
In Kahuta before the end of April } next after the granting of the trees.

Trees granted on special application at other times shall be cut and removed within three months of the grant if the trees have been already marked, or otherwise within three months of the marking of the trees.

In case the trees granted have not been cut and removed within the period fixed by the license as above, the license shall lapse, unless renewed by the Forest Ranger.

Permits how to be returned.

12. All licenses granting permission to applicants to cut trees must be returned to the village lambardar within one month of the expiry of the period within which they were ordered to be cut and removed ; and the lambardar shall deliver them to the Ranger on demand.

Persons holding unexpired licenses shall exhibit them on demand to any Forest Officer.

*C.—Granting of licenses to fell and remove Timber and Forest Produce for Trades.*

13. The granting of licenses to fell and remove trees, timber or other forest produce for trade, the production and return of such licenses, the payments to be made in respect thereof the places where such payments shall be made, and the examination of produce covered by such licenses before it leaves the forest, shall be at the discretion of the Deputy Conservator of Forests, acting under the control of the Deputy Commissioner. Such licenses shall not be so granted as to interfere with the due supply of the right-holders.

*D.—Payments for Produce cut and removed for Personal Use.*

14. For every license to cut trees granted to a right-holder under Rule 10 there shall be payable, before it is made over to the applicant, a fee of one rupee. A similar fee shall be payable on renewal under Rule 11.

*G.—Clearings for Cultivation or Other Purposes.*

15. Right-holders in any demarcated protected forests shall only be allowed to break up and cultivate forest land within such forest after the Commissioner of the Division shall have notified that permission to break up land within such forests may be granted, and the clearance of forest land for such purposes shall be permitted only subject to the following rules.

16. Any person owning land in a village adjacent to a protected forest in which he has rights may apply to the Deputy Conservator of Forests for permission to cultivate land in that forest. The application shall be accompanied by a copy of the applicant's parcha of ownership, and shall contain the following particulars :—

(1) The name, parentage and residence of petitioner.

(2) The land owned by the petitioner.

(3) The revenue paid by him.

(4) The extent of the uncultivated waste of the village or villages in which he is a sharer, and in respect of which he holds rights in the forest.

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(5) His reasons for desiring to break up land within the forest in question.

(6) The date and amount of any prior grant to him of the same nature in the same or other demarcated protected forest.

17. The Deputy Conservator of Forests may at once reject the application, or may cause the land to be demarcated and measured by the village patwari, and after such enquiry as may be necessary, may authorize the cultivation.

18. An appeal from an order of the Deputy Conservator of Forests refusing permission to clear land for cultivation shall lie to the Deputy Commissioner, whose order shall be final.

I.—*Pasturing of Cattle.*

19. No camels, sheep or goats shall be pastured in protected forests; other animals *bonâ fide* the property of right-holders, may be pastured in the forests over which their owners have rights.

J.—*Hunting and Shooting.*

20. The shooting of birds is prohibited from 16th March to 15th September (Chetar to Bhadon, inclusive).

No call-birds, nets or snares shall be used.

L.—*Exercise of Rights.*

21. There are no restrictions on passage and on access to water in the protected forest.

(*Notification No.* 65, *dated* 17*th February* 1887, *Punjab Gazette of same date, page* 55).

(*g*). In accordance with the provisions of Section 77 of the Indian Forest Act, 1878, and in supersession of Punjab Government Notification No. 432, dated 27th October 1886, it is hereby notified that the annexed Rule has been framed by the Local Government under Section 14 (*c*) of the said Act and is applicable to the Reserved Forests of Tahsils Murree and Kahuta notified in *Punjab Government Gazette* Notifications No. 431, dated 27th October 1886, and No. 257, dated 10th August 1887.

Notification No. 432, of 27th October 1886, is hereby cancelled :—

RULE.

"Not more than three-quarters of the whole area of any of the Reserved Forests notified in Punjab Government Notification No. 431, dated 27th October 1886, shall be closed to grazing at any one time."

(*No.* 257, *dated* 9*th May* 1888, *Punjab Gazette of* 10*th idem, Part* I, *page* 409).

(*h*).—In exercise of the powers conferred on him by Section 41 of Act VII of 1878, the Hon'ble the Lieutenant-Governor is pleased to make, and, with the sanction of the Governor-General in Council, hereby to publish the following Rules :—

*Punjab River Rules.*

Interpretation clause.

*Rule I.*—All words used in these Rules and defined in Act VII of 1878 (The Indian Forest Act), shall be deemed to have the meanings respectively attributed to them by the said Act.

Collection of timber placed in the river from the forest.

*Rule II.*—No person having launched his timber, or set it afloat on any river, shall collect the same, except—

(*a*) with the permission in writing of the Forest Officer in charge of the Forest Division.

(*b*) at the places which such officer may publicly notify as places at which such collection shall ordinarily be made.

Pass to be obtained for rafting timber after collection.

*Rule III.*—No person shall raft, or otherwise convey, any timber which has been collected on any river, without first obtaining a pass from the Forest Officer in charge of the Forest Division in which such river is situate, or from such subordinate Forest Officer as the Officer in charge of the Division may authorize in that behalf.

What the pass contains.

Such pass shall show the number of logs or pieces, the kind of timber, the marks indicative of the owner's property therein, the place of its destination, and the time for which it shall remain in force. It may specify that the timber may be stopped for examination at certain places to be named in the pass, and the Forest Officer may require the measurements of the timber (when such is practicable) and its estimated value to be entered.

No pass shall be issued for any unmarked timber or for such timber as bears a mark not registered as hereinafter provided.

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Provided, that when any person having timber in transit on a river, at the date of the publication of these rules, applies for a pass for such timber within six months from such date, such pass may be granted, though the marks on such timber have not been registered.

Any Forest Officer may require any person rafting or conveying timber, as aforesaid, to produce the pass for the same at any time. No person shall be entitled to raft or convey timber by virtue of a pass which he does not himself hold, but which is, or is stated to be, in the hands of some other person.

In the event of the pass not being produced, the Forest Officer may detain the timber.

Timber not to be deposited close to the water.

*Rule IV.*—No person is permitted to deposit any timber, for which a pass has been applied for, but not yet issued, so close to the water's edge as to endanger its being carried away by a rise in the river before the pass is issued.

Fee chargeable for the issue of the pass.

*Rule V.*—For the issue of the pass a fee not exceeding one anna for each log or piece of timber may be levied on such rivers and at such places as the Conservator of Forests may from time to time direct.

Moving, marking, &c., of timber in transit.

*Rule VI.*—No person shall, without the permission in writing of the Forest Officer in charge of the Division, cut up, move, conceal, mark or efface or alter any marks on any timber while in transit or adrift on any river, or stranded on any bank or island of the same.

Any such permission, if granted, shall specify the place at which only it is to take effect and may contain such other conditions regarding the previous inspection of the timber and otherwise as may be necessary.

Registration of timber property marks.

*Rule VII.*—All persons wishing to float or otherwise convey timber by any river shall register, at the Forest Office of the Division to which the control of the river pertains, the mark or marks which indicate their proprietary right in such timber. A registration fee of five rupees shall be payable for every separate mark so registered; and if the number of marks exceed three, the said fee shall be ten rupees for each mark.

In case of persons who have already made use of certain marks on timber in the river.

*Rule VIII.*—In the case of persons having at the date of the publication of these rules, timber in transit on any river, a period of six months from such date shall be allowed within which the timber marks existing at such date on such timber in transit may be registered.

Subject only to the provisions of Rule X, the Forest Officer shall during such period be bound to register all such marks as owners of timber can show to his satisfaction to have been already made use of and put on their timber previously to the publication of these rules; but no such owner shall be entitled to register any new or additional marks without the special permission of the Forest Officer.

In the case of persons not having timber already in the river.

*Rule IX.*—In the case of persons not having, at the date of the publication of these rules, timber or other forest produce in transit on any river marked with several different marks, the registration of one mark only shall be permitted, unless permission be given for any special reason to register more than one.

Refusal of registration of marks similar to those already in use either by Government or another person.

*Rule X.*—No person shall be allowed to register a mark already registered in favor of another person, nor any mark used by Government; and the Forest Officer may refuse registration of any mark which in his judgment so closely resembles a mark used by Government, or registered in favor of any person, as to be easily producible by altering such marks.

Registration to hold good for three years.

*Rule XI.*—Every registration under these rules shal hold good for three years, following the 1st of January next, after the date of registration.

Certificate of registration.

A certificate showing the marks registered, the date of registration, the period for which it holds good, and acknowledging the payment of the fees, shall be given to every person registering his mark or marks.

Penalty.

*Rule XII.*—Any person infringing any provision of these rules shall be punished with imprisonment of either description, which may extend to six months, or with fine which may extend to five hundred rupees or with both.

(*Punjab Government Notification No. 340 F., dated 19th August 1879, Punjab Gazette of 21st idem*).

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(i).—In exercise of the powers conferred on him by Section 51 of Act VII of 1878, the Hon'ble the Lieutenant-Governor is pleased to make and hereby to publish the following Rules :—

Collection of timber which has gone below the catching places.

*Rule I.*—Whenever on any river, owing to flood or otherwise, timber has passed the place or all the places where it would ordinarily be caught and brought under control, or has after being brought under control, broken loose, and is consequently adrift or stranded below, the Forest Officer in charge of the Forest Division in which such river is situate may, instead of collecting such timber himself, under Section 45 of Act VII of 1878, grant permission in writing to the owner or owners to collect such timber.

*Rule II.*—The permission shall specify the kind of timber, the marks it should bear, the destination or manner of its disposal when collected, and the time for which such permission shall hold good.

*Rule III.*—No person shall without such permission cut up, remove, conceal, burn, mark or efface, or alter any mark or marks on, or sell or otherwise dispose of any such timber.

* *Rule IV.*—The Forest Officer in charge of the Division may authorize zaildars, lambardars, or other respectable persons to salve timber which is adrift at any point on the river below the last catching place, and may cancel such authority.

For every log salved and taken to any drift timber depôt notified by the Forest Officer under Section 45 of the Act, the following salvage rates shall be payable, either to the authorized salver or to the Forest Officer, as the case may be:

| | | | | |
|---|---|---|---|---|
| For every log of deodar of 8 feet in girth and over | | | | 1 rupee. |
| Ditto | 5 | ditto | ... | 8 annas. |
| Ditto under | 5 | ditto | ... | 3 annas. |
| Sleepers and scantlings | ... | ... | ... | 3 annas each. |

For logs and scantlings of other woods, half the above rates.

For salvage of scraps or firewood, one-fourth of the pieces collected in kind.

The Forest Officer in charge may fix any higher rate, not exceeding twice the above rates, for salving on any portion of the river where such salving is unusually difficult or dangerous.

Nothing in this rule shall be held to prevent the Forest Officer contracting with such salvers to raft the timber at certain places at rates agreed on by the parties, and no salvage rate shall be claimable in addition to any rate paid under such contract.

*Rule V.*—The collection or salving of timber adrift or stranded below all the catching places by unauthorized persons is prohibited.

*Rule VI.*—Whoever infringes any provision of the above rules shall be punished for every such offence with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*Punjab Government Notification No.* 341 *F., dated* 19*th August* 1879, *Punjab Gazette of* 21*st idem*).

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(*j*).—The Lieutenant Governor is pleased, under Section 75 of Act VII of 1878 (The Indian Forest Act), to prescribe and limit the duties of Forest Officers, and to provide for the payment of rewards to certain Revenue, Police, and Forest Officers, by the following rules :—

1. The Conservator of Forests, all Deputy Conservators, Assistant Conservators, Sub-Assistant Conservators, Forest Rangers, Foresters, and Forest Guards are appointed to do all acts and exercise all powers that are prescribed by the Act, or by Rules made under it, to be done by a Forest Officer or by any Forest Officer.

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* In exercise of the powers conferred upon him by Section 51 of Act VII of 1878, the Hon'ble the Lieutenant-Governor is pleased to declare that Rule IV published under Notification No. 341 F., of 19th August 1879, is hereby cancelled, but only so far as regards the river Jhelum. On the said river, in lieu thereof, the following rule shall henceforth be in force :—

RULE.—The Forest Officer in charge of the Jhelum Division may authorise zaildars lambardars, or other respectable persons to salve timber which is adrift at any point on the river below the last catching place, and may cancel such authority.

The amounts payable for the salvage of such timber delivered at any drift timber depôt which may be notified by the Forest Officer under Section 45 of the Act, shall be the same as the amounts payable according to the contract, if any, for salvage of Government timber, in force at the time of the delivery of the salved timber at such depot, or, in the absence of any such contract, and in any case not provided for by such contract, shall be, between Jhelum and Khushab, at the rate of five rupees eight annas, and between Baghan and Jhelum, at the rate of three rupees six annas, per 100 cubic feet of contents.—(*Punjab Government Notification No* 318, *dated* 27*th July* 1882, *Punjab Gazette of* 3*rd August* 1882).

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2. The Forest Officers mentioned in the first column of the following Schedule shall exercise the powers under the sections of the Act mentioned in the second column of the same opposite each class of Officers respectively ;—

| Class of Officers empowered. | Section of the Act under which powers are given. | Brief description of nature of powers conferred. |
|---|---|---|
| I.—All Deputy Conservators, Assistant Conservators and Sub-Assistant Conservators, when in charge of Forest Divisions. | 20 | To publish translation of notifications of reserved forests. |
| | 25 | To notify seasons during which the kindling, &c., of fire is not prohibited. |
| | 45 | To notify depot for drift timber, &c. |
| | 46 | To issue notice to claimants of drift timber, &c. |
| | 47 | To decide claims to drift timber, &c. |
| | 50 | To receive payments on account of drift timber, &c. |
| | 60 | To direct release of property seized. |
| | 82 | To take possession of, and sell forest produce for Government dues. |
| II.—All Deputy Conservators, Assistant Conservators, and Sub-Assistant Conservators ; Forest Rangers, and Foresters when pecially authorized in that behalf by the Conservator of Forests. | 25 | To permit acts otherwise prohibited in reserved forests |
| | 33 | To permit acts otherwise prohibited in protected forests. |

3. Conservators of Forests are empowered to exercise all or any of the powers conferred in the foregoing Schedule.

4. Conservators of Forests are empowered, under Section 24 of the Act, with the previous sanction of the Commissioner of the Division, to stop ways and water-courses in reserved forests, subject to the provisions of that section.

5. All Revenue Officers below the rank of Tahsildar, and all Police Officers up to and including Inspectors, all orest Officers below the rank of Sub-Assistant Conservators, and ForestOffice Clerks and Messengers, as well as persons who are not public servants, are eligible for rewards under these rules.

6. On conviction of an offender, or on directing the confiscation of property under Section 56, the Magistrate by whom the case has been decided is authorized to grant such reward, and in such proportions as he may think fit, to any person or persons who have contributed to the seizure of the property confiscated, or the conviction of the offender, provided that the total amount of the reward shall not exceed the estimated value of the property confiscated *plus* the amount of any fine imposed.

7. If in any case the fine and the proceeds of the property confiscated cannot be immediately realized, the Magistrate deciding the case shall at once pay the reward (provided that it does not exceed Rs. 100). If in any case the Magistrate considers that more than Rs. 100 should be distributed as rewards, he shall distribute Rs. 100 at once, and shall submit his recommendation for a larger reward, through the Conservator of Forests, for the orders of the Local Government, giving his reasons for the same.

8. In case the Magistrate has not at his disposal a fund out of which the reward can be paid, or in the case of an order of confiscation where by law the Forest Officer takes charge of the property, the Forest Officer of the Division shall on requisition furnish the Magistrate with the necessary funds.

9. In any case, the rewards shall be paid within the limit and under the sanction provided in Rule 6, even though the fine may not have been realized. In cases in which the Forest Officer has furnished the funds under the rule, the fine on recovery shall be paid over to him.

10. If after payment of the reward the conviction is reversed in appeal, the amount paid away in reward shall not be recovered from the persons to whom it has been paid, unless it shall appear that they have acted fraudulently in the case.

11. In cases where, under Section 67 of the Indian Forest Act, a Forest Officer has accepted a sum of money as compensation for any damage which may have been committed, the Conservator of Forests may authorize the payment of a portion of the amount

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realized (not exceeding three-fourths) as a reward to any person or persons who may have contributed to the discovery of the offender.—(*Punjab Government Notification No.* 533 *F., dated 8th December* 1879, *Punjab Gazette of* 11*th idem*).

(*k*). The following revised and consolidated instructions, on the subject of the realization of Forest Income, are issued in supersession of the Circulars noted in the margin.

Realization of Forest Income.

2. Under Section 81 of the Indian Forest Act, VII of 1878, extracted below, all Forest Income is, if not paid when due, recoverable as if it were an arrear of land revenue. The manner in which arrears of land revenue are recoverable is described in Chapter V of the Land Revenue Act, XXXIII of 1871; and Section 56 in that Chapter declares what property of a defaulter may be sold by auction for arrears of revenue, when other modes of recovery have failed or are inapplicable.

Cir. 30 of 27th May 1872.
Cir. 4 of 21st Jany. 1873.
Book Cir. VII of 30th March 1875.

3. Petty permits issued by Forest officers are ordinarily paid for in cash beforehand so that arrears cannot ordinarily accrue in respect of them.

4. The chief items of Forest Revenue realizable through Deputy Commissioners, are—

1. Grazing leases.
2. Leases to collect sujji, main, gulkesu, kankar, and any similar articles of miscellaneous Forest produce.
3. Price of fuel sold.
4. Price of timber sold.

The last two items are usually collected by Forest Officers direct, but occasions may arise when the assistance of the Deputy Commissioner is necessary for their recovery and in such cases the present instructions are applicable.

5. Leases for grazing in rakhs under the Forest Department must always be sold at the Deputy Commissioner's office in communication with him; but in special cases they may be sold at the Tahsil, under such arrangements as may be agreed upon between the Deputy Commissioner and the Forest Officer.

6. Security must always be taken from purchasers of leases, and such security must be verified by the Deputy Commissioner, before the lessee is put in possession. When the lessee's security has been verified, and his deposit (if required) has been paid, he shall be furnished with a "Putta" stating the terms of the lease, signed by the Deputy Commissioner or the Forest Officer, and a list of all the Puttas issued shall be kept up in the District office.

7. The Forest Officer will send in to the Deputy Commissioner a demand statement, in the annexed form, showing the details of Forest revenue due for the year, and realizable through the Deputy Commissioner. Should any further items arise during the year, they may be reported to the Deputy Commissioner in supplementary demand statements, in the same form.

All objections to the amount demanded will be referred by the Deputy Commissioner to the Forest Officer.

8. In certain cases, as in Mooltan and Montgomery, the grazing income of the Forest Department consists of a share of the *tirni* of the district, proportioned to the area of grazing land under the Forest Department. In such cases the management is vested in the Deputy Commissioner, and no demand statement need be sent in by the Forest Officer.

9. Deputy Commissioners will furnish Forest Officers with a monthly statement of demands, collections, and balances of Forest Revenue in the annexed form:—

*Extract Section* 81 *from Act VII of* 1878, *the Indian Forest Act*

Recovery of money due to Government.

All money payable to the Government under this Act, or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce, may, if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land revenue.

*Demand Statement of Forest Revenue for the year* 18 .

| Serial number. | Name of contractor, permit-holder, &c., &c., with caste, father's name, and residence, &c. | Name and situation of rakh or forest. | Area over which the permit extends. | Detail of demand. | Total demand of the year. | Detail of instalments, amount, and date when due. | REMARKS. |
|---|---|---|---|---|---|---|---|

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*Statement showing the demand, collections, and balances of Forest Revenue required to be realized by the Deputy Commissioner in the District of for the month of*

| Demand. | | | Collections. | | | Balances. | | | Remarks explanatory of balances. |
|---|---|---|---|---|---|---|---|---|---|
| For current year. | Balance of previous year. | Total. | In previous months of current year. | In present month. | Total. | Of previous year. | Of current year. | Total. | |
| | | | | | | | | | |

DEPUTY COMMISSIONER'S OFFICE,
*The* 18 . } *Deputy Commissioner.*

(*Financial Commissioner's Book Circular No. XV of* 1879).

See also Financial Commissioner's Circular No. 31 of 1883.

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Responsibility of Collectors defined in districts in which Forest Officers are employed.

(*l*). WITH the sanction of the Local Government the Financial Commissioner issues the following instructions with the object of defining the responsibility of Collectors of districts in which Forest Officers are employed in respect of the duties discharged by these Officers. But nothing in this Circular applies to the working of the Punjab River Rules, to the collection of drift and stranded timber under Chapter IX of the Indian Forest Act, to forests in Native States, nor to the Changa Manga Reserve. Neither does it apply to limited areas in one district managed by a Forest Officer whose main duties lie in another district.

2. When the Collector considers it desirable that Magisterial powers for the trial of forest offences should be conferred on a Forest Officer, the Local Government will be prepared to consider such a recommendation, but each case of this kind will be separately treated with reference to local requirements and the personal qualifications of the Forest Officer concerned.

Relation of District Forest Officer to Collector.

3. (*a*). In respect of the matters mentioned in clause (*b*) of this paragraph the District Forest Officer is under the control of the Collector in his management of—

(*i*). Reserved forest.
(*ii*). Protected forests.
(*iii*). All unclassed forest and waste land owned by the State, or in which the State has forest rights.

In a sub-division of a district, as for example in the Kulu Sub-Division of the Kangra District, the control of the Collector may be exercised through the Assistant Collector in charge of the sub-division.

(*b*). The control of the Collector will be exercised in respect of the taking up of new forests, the recovery of monies due to Government, the prosecution of forest offences, so much of the forest administration as affects the use of the forests and waste lands by the adjacent population, and the appointment, posting and transfer of establishment, so far as they affect these questions.

Assistance to be rendered as heretofore by the Collector's establishment.

4. The Collector will see that Tahsildars and the subordinate revenue agency of all grades not only render the same assistance as heretofore in the management of Government waste lands, and especially in the assessment and collection of Government dues, but also that these officials render assistance in the management of all forests. All distinctions and practices which are likely to encourage the impression that forest work lies outside the ordinary duties of land revenue officials should be gradually abolished. The Collector will also authorize the District Forest Officer to address orders to these officials direct in matters in which it may be convenient that he should, in ordinary cases, act without the intervention of the Collector.

5. The District Forest Officer will keep a diary, in which will be briefly noted from day to day—

(*a*) all occurrences of importance relating to duties discharged by him ;

(*b*) the substance of any reports or representations (verbal or written) addressed by him to the Collector, and all orders received from that officer.

Should a Forest Officer be District Forest Officer of more than one district he will write a separate diary for each district.

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This diary, written on half-margin, will be sent weekly to the Collector, and will be accompanied by a brief *precis* of any correspondence with the Conservator affecting the matters in respect of which the control of the Collector is exercised. The Collector will retain the *precis* but will forward the diary without delay to the Conservator of Forests, adding any remarks he may wish to make.

The Conservator of Forests will return the diary direct to the District Forest Officer who will lay before the Collector any remarks that the Conservator may have made thereon.

Forests and waste lands to be administered according to working plans and sanctioned plans of operations.

6. All the lands mentioned in paragraph 3 (*a*) shall be administered in accordance with working plans sanctioned by Government, and with temporary plans of operations as provided in Chapter II, Part I, of the Forest Department Code, and in the following paragraphs.

Working plans.

7. It has not yet been possible to provide working plans for all these lands. But when the Conservator of Forests is in a position to provide a working plan he will, in consultation with the Commissioner of the Division, issue orders for its preparation. All working plans require the countersignature of the Collector, Commissioner and Financial Commissioner, whose duty it is to see that a proposed plan is framed with due consideration to local requirements.

When the working plans are so countersigned, they will, if they relate to (*i*) reserved forests or to (*ii*) protected forests, be submitted by the Conservator to the Inspector-General of Forests for scrutiny and approval of technical points. The Inspector-General will forward them to the Local Government with his opinion and remarks, and the Local Government will pass orders upon them, furnishing a copy of the same to the Government of India for confirmation or record. But if they relate to (*iii*) unclassed forests and waste lands owned by the State, or in which the State has forest rights they will be sent by the Conservator to Government through the Financial Commissioner.

Working plans, when sanctioned by Government, cannot be altered except under the procedure and sanction above prescribed.

Annual plans of operations.

8. In addition to such details as may from time to time be prescribed by the Conservator of Forests, the annual plans of operations shall state—

(*a*). The grazing management, *viz.*,—

(*i*) Absolute closings.

(*ii*) Closings for part of the year or against certain animals only.

(*iii*) Temporary closings for improvement of fodder.

(*iv*) Grazing permits and leases.

(*b*). Temporary cultivation subsidiary to forest management.

(*c*). Cuttings and sale of timber, fuel and other forest produce.

(*d*). Protection from fire and from trespass.

It is not however, intended that arrangements previously approved and found to work satisfactorily should be re-stated at length each year. It will be sufficient under such circumstances to state briefly that previous arrangements will be continued. The annual proposals for the regulation and management of grazing will be in accordance with the system prescribed by the orders of the Financial Commissioner; and in framing proposals under this paragraph for the closing of areas which have not been declared reserved or protected forests under the Indian Forest Act, 1878, due consideration should be shown for the grazing convenience of adjacent villages.

9. Annual plans of operations will be framed by the financial year. There will be a separate plan for each district. It will be prepared in duplicate by the District Forest Officer, who, in respect of the matters mentioned in paragraph 3 (*b*), will, in preparing it, be guided by the instructions given by the Collector. The Collector will submit the plan to the Conservator for sanction.

The Conservator in framing his orders on the plan will consult the Commissioner in respect of the matters mentioned in paragraph 3 (*b*). If in regard to any of these matters he disagrees with the Commissioner he will refer the point at issue to the Financial Commissioner for his orders, or for the orders of Government, as the case may require. Final orders should be issued before the 15th March in each year.

Subsequent alterations.

10. If, during the currency of any annual plan of operation so sanctioned, it becomes necessary to revise it in respect of any matter mentioned in paragraph 3 (*b*), the procedure laid down in paragraph 9 will be followed.

11. The District Forest Officer will be consulted by the Collector with reference to all proposed alienations of forests or waste lands by grant, lease, or sale, and he will give such assistance in cases of this nature as the Collector may require, specially in the selection of the sites and determination of the boundaries of proposed grants. No land, whether protected

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or unclassed forest or waste, the revenue of which is credited to the Forest Department, will be granted, leased, or sold until the consent of the Conservator of Forests to its alienation has been obtained.

Office and routine.

12 (*a*). The offices of District Forest Officers will, so far as possible, be located in or in the immediate vicinity of the Collector's office.

(*b*). Formal official correspondence between the Collector and the District Forest Officer concerning matters dealt with by these instructions should be avoided as far as possible; written communications, when necessary, being carried on by the transmission on original files and cases under the same rules as apply to the transaction of business between a Collector and his Revenue Assistants.

(*c*). The Collector may direct the District Forest Officer to file in the District Record Office such of the Forest records as relate to Forest settlements or revenue leases, or other matters affecting the use of the forests and waste lands by the population adjacent thereto.

13. Proposals of importance for the formation of new forests, or which affect the use of the forests and waste lands by the adjacent population, will be addressed by the Conservator to the Financial Commissioner for submission to Government.

14. Nothing in this Circular is to be understood as affecting the responsibility of the Revenue Officers in respect of the special assessments described in clause (*f*) of section 59 of the Land Revenue Act.

15. The attention of Revenue and Forest Officers is invited to the following Circulars, *viz*:—

No. 37 of 1879, relating to realization of forest income
No. 60 of 1886, relating to the compounding of forest offences.
No. 26 f 1887, relating to forest settlements.
Circular No. 42 of 1885 and Circular Memo. No. 30 of 1887 are hereby cancelled.

(*Financial Commissioner's Circular No.* 11 *of* 1888).

Instructions for regulation of proceedings taken by Forest Officers under Section 67 of the Forest Act, No. VII of 1878.

(*m*). WITH the sanction of the Punjab Government the Financial Commissioner issues the following instructions for the regulation of the proceedings taken by Forest officers under Section 6 of the Indian Forest Act (No. VII of 1878).

Punjab Government No. 532, dated 8th December 1879, Copy annexed, together with the last order fixing the limits of these Divisions.

2. By the notifications quoted in the margin, all Deputy Conservators, Assistant Conservators and Sub-Assistant Conservators of Forests, when in charge of Forest Divisions, are empowered to make certain compositions in accordance with the terms of Section 67 of the Indian Forest Act, with persons who are reasonably suspected of having committed a forest offence.

3. It is obvious that as a general rule powers such as those conferred by Section 67 should be exercised in personal communication with the person affected by them, and it should only rarely be necessary to proceed on written reports of subordinates, and in the absence of the person offering the composition. At the same time when the amount of damage done is insignificant, if it is necessary to take compensation at all, it would be manifestly inequitable to drag a herdsman a long distance in order to make a petty payment of a rupee or two to the Forest Officer. In all such cases in which Forest Officers accept compositions under Section 67, otherwise than in personal communication with the person offering the composition, the Financial Commissioner directs that this circumstance and the reason for it shall be noted in the Register prescribed by paragraph 7 of this Circular.

4. The Financial Commissioner also desires Deputy Commissioners and Forest Officers to bear in mind that the mere fact that cattle have trespassed in reserve forests does not by itself constitute a reasonable suspicion of the commission of a forest offence. In addition to the fact of the trespass there must be reasonable grounds to suspect that it was occasioned or permitted by the person offering the composition. When accepting a composition the Forest Officer should record (in Column 4 of Register appended) what these grounds are in the particular case.

5. It is also necessary to remember that the composition to be paid is by way of compensation for any damage which may have been committed, and not by way of a fine. The damage should, therefore, be fairly estimated by the Forest Officer on facts brought to his notice, and should not be assumed as probable. And if, with reference to the circumstances of any case, the Forest Officer considers that a composition restricted in this manner will not be suitable, he should bring the case before the Magistrate for prosecution.

6. At the same time as a Forest Officer compounds an offence, he may release on payment of its value any property seized under the authority of Section 52. The value demanded for such property should be fairly estimated. If the Forest Officer is unwilling to release the

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property seized, it will usually be best to refrain from compounding the offence, for the refusal to release the property seized necessitates a reference of the case to the Magistrate.

7. The Financial Commissioner further directs that records of proceedings preliminary to a demand for compensation be made as brief and informal as possible. Every officer empowered under Section 67 of the Act should keep a Register in the form appended, in which he will enter in his own hand, as they occur, the cases dealt with under that section—only those cases need be entered in which a composition is actually paid.

*Form of Register referred to in paragraph 7.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| | | | | | Composition paid. | | | |
| Serial No. | Name and description of offender. | Forest in which offence was committed. | Particulars of offence and damage caused by offence, and date thereof. | Detail of property seized. | On account of damage caused by offence. | On account of value of property seized and released. | Date of payment. | Signature of compounding Officer. |
| | | | | | | | | |

*Circular cancelled.*

Conservator Forests' Circular No. 93, dated 9th January 1883.

APPENDICES.

1. Notification No. 532, dated 8th December 1879.

2. *Notification No. 485, dated 4th November 1885.* *

Copy of *Punjab Government Gazette* Notification, Forest Department, No. 532, dated 8th December 1879.

*No. 532 F.—Notification.*—Under section 67 of Act VII of 1878 (the Indian Forest Act) the Lieutenant-Governor is pleased to invest with the powers described in the said section the Conservator of Forests, all Deputy Assistant and Sub-Assistant Conservators of Forests, when in charge of Forest Divisions. [The portion of above notification which has been cancelled by subsequent Notification No. 488, dated 31st October 1882, is omitted.]

(*Financial Commissioner's Circular No. 60 of 1886*).

Instructions for guidance of Forest Settlement Officers in proceedings under Chapter II of the Indian Forest Act, 1878.

(*n*). The Financial Commissioner, with the sanction of the Hon'ble the Lieutenant-Governor, issues the following instructions for the guidance of Forest Settlement Officers in Proceedings under Chapter II of the Indian Forest, Act, 1878.

*Preliminary Proposals*

1. Proposals to constitute Reserved Forests (whether initiated by local officers or framed in consequence of instructions received from superior authority) should be submitted by Deputy Commissioners to Commissioners and should be accompanied by—

(*i*) a map showing the land which it is proposed to treat in this manner, and also the lands adjacent thereto;

(*ii*) a draft Notification under section 4 of the Act;

(*iii*) a report stating the rights in the land, so far as known, the manner in which the land has hitherto been managed, and the reasons for which it is desired to convert it into a Reserved Forest, with suggestions for the appointment of a Forest Settlement Officer and other agency, if any, required for his assistance.

* Superseded—See Note (*c*), ante p. 1083.

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2. In drawing up this report the Deputy Commissioner should avail himself of the assistance of the District Forest Officer. In his absence, or for the proper treatment of cases of sufficient importance, the Conservator of Forests may be able to place a Forest Officer at the Deputy Commissioner's disposal for the purpose. No detailed enquiry into rights should be made at this stage.

3. It is of particular importance that this report, which is the first step in Forest reservation proceedings, should state clearly the purpose for which the reservation is proposed, *e.g.*, for the better supply of the adjacent population with timber, fuel, grass, or other forest produce; to meet the demands of railways, cities, or cantonments; to protect by forest growth hill sides and prevent destructive drainage; to grow or protect a high class of timber. The manner in which the reservation is likely to affect adjacent estates or population should also be noticed. To this end the map accompanying should show not only the lands which it is proposed to reserve but also the lands adjacent thereto, distinguishing inhabited sites, cultivation and waste. It is ordinarily difficult for an agricultural or pastoral population to modify their habits in conformity with novel demands of regulated forest management, and it is for the reporting officers to show either that the proposed reservation will not affect the conveniences of the adjacent population, or that sufficient necessity exists for restricting their conveniences.

4. The Commissioner on receipt of the Deputy Commissioner's report will forward it to the Conservator of Forests for his opinion, and after receipt of that officer's reply will submit the report to the Financial Commissioner with his recommendations.

*Forest Settlement Procedure.*

5. When a proposal to constitute a Reserved Forest has been notified, and the Forest Settlement Officer has entered upon his duties and has issued the proclamation required by Section 6, his most immediate duty is to ascertain whether he has at his command a sufficiently accurate map of the land to be reserved, and if he has not, then to provide one, for which purpose Section 8 of the Act furnishes him with the necessary authority. Except for special reasons, the map should not be on a smaller scale than four inches to the mile. Its outer boundaries and the boundaries of all interior holdings should be carefully attested, and be compared with the existing records available in the District Record Office.

Section 7 of the Act.

6. In the meantime all claims preferred and statements of rights of which the existence is ascertained (whether from previous records or from local inquiry) should be put up in a file, and be dealt with in the manner provided by the Act. Claims should be clearly set out, either by petition or by deposition, or in both ways. If rights are believed to exist, and the right-holders do not appear, these persons should be summoned and be examined with reference to their rights. Documents relied on should be filed in original, or, if copies are filed, they should be admitted only after comparison with the originals. Where previous records are referred to, the original records should be inspected, and certified extracts should be filed. If claims or rights are disputed, suitable issues should be framed, evidence heard and findings be recorded thereon. In short, the Settlement Officer should remember that he is armed with the powers of a Civil Court and that his decision possesses a similar finality. At the same time separate files need not ordinarily be made up for each claim. Unless difficulties arise, it will be usually sufficient to deal with all claims and rights in three files according to the classification given in the paragraph next following.

Section 8 (*b*) of the Act.

7. In respect of the treatment of claims, attention is directed to the following instructions:—

Chapter II of the Forest Act divides the claims with which a Forest Settlement Officer has to deal into three classes, and provides a different method of treatment for each class. The three classes are—

Sections 11 to 14.

(*i*) claims to public or private ways or water-courses;
(*ii*) claims to rights of pasture or to forest produce;
(*iii*) claims to other rights.

Public and private ways and water courses.

8. The Forest Settlement Officer must be careful to record all public and private ways and water-courses existing at the time of his inquiries, and in this class of claims must be included rights to use the water of wells, springs and streams situate inside the boundaries of the proposed reserve, for if the right to use such water exist it cannot be enjoyed unless a proper way of approach to the water is allowed. But though the Forest Settlement Officer is required to record all rights of this class, he has no authority to expropriate or commute them. His duty is limited to the drawing up of a clear record of them. Their future regulation is a matter for the Executive Government, under Section 24.

Rights of pasture or to forest produce.

9. The treatment of the 2nd class of claims, *viz.*, claims to rights of pasture or to forest produce, is the most difficult part of the Settlement Officer's duty. If, after the inquiry to which reference has been made in paragraph 6 above, he rejects a claim in whole or in part, he should be careful that his order contains all the

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particulars required by Section 12. If he admit a claim, he should proceed to record with as much completeness as is possible all the particulars required by Section 13.

Having made this record, it remains for the Forest Settlement Officer to secure by one of the three methods laid down in Section 14 of the Act the continued exercise of the rights so admitted. He may either transfer the right to another forest tract under the conditions stated in Section 14 (*a*); or, under the conditions stated in Section 14 (*b*), he may exclude from the forest an area sufficient for the exercise of the rights established. Both of these methods possess obvious advantages, especially in the eyes of the right-holders, but it lies with the Forest Settlement Officer to take care that in resorting to them he does not burden any land with rights so extensive as to insure its ultimate deterioration. It is easy by a too ready resort to expedients of this nature to purchase the proper forest preservation of one forest area at the cost of the ultimate destruction of another forest area. The Forest Settlement Officer is under no necessity to sanction wasteful adjustments of this nature. Under Section 14 (*c*) he can record an order appointing the seasons at which, and the portions of forest in which, the rights shall be exercised, and he can also propose in his final report any rules which without restricting the rights admitted place appropriate safeguards on their exercise. In making arrangements of this nature, it is useful to bear in mind the necessity for providing that all areas burdened with rights shall be closed in rotation for reproduction. For instance where a right of grazing can be sufficiently provided for in a hundred acres, it is expedient, if possible, to record the right in a larger area, subject to adequate conditions for securing the closing of the whole in rotation.

All this is to be done to the best of the Forest Settlement Officer's ability, and with due regard to the successful maintenance of the forest under reservation. Primarily the Government is not interested in extinguishing rights of pasture or to forest produce. But in the last resort, and where really necessary in the interests entrusted to his charge, the Forest Settlement Officer has authority under Section 15 of the Act to expropriate these rights.

Other rights.

10. There remains the 3rd class of rights, which includes all those not mentioned above. In respect of these the Legislature leaves no option to the Forest Settlement Officer. He must either exclude from the forest the land on which these rights are claimed; or he must extinguish the rights. In this connection it should be remembered that, provided a given area of land is expressly excluded from the reserve, being clearly demarcated off, the mere fact that the reserved forest surrounds such land does not necessitate expropriation of the latter. No doubt such areas (commonly known as Chak Kharija) often create difficulties in forest management, and where this is the case, the Settlement Officer will act rightly in expropriating them. But in each instance the question is for his decision.

Financial Commissioner's Circulars No. 27, dated 29th May 1882, and No. 1, dated 6th January 1886.

11. In carrying out expropriations care should be taken to comply with the rules issued by Government for the guidance of Deputy Commissioners in their proceedings under the Land Acquisition Act of 1870. For all proposed expropriations village statements should be prepared and filed as required by No. XIX of these rules, and the award should be entered in the district register (Rule XL). If reductions in the revenue roll are necessitated by these expropriations, the Settlement Officer should prepare and forward to the Deputy Commissioner the statement prescribed by Rule XXXI. and it will usually be convenient to him to do this at the same time as he makes his award.

12. As the settlement of the reserved forest proceeds, if its boundaries have not already been permanently marked out, it is the duty of the District Forest Officer to set up permanent pillars and to test the agreement of these pillars with the final record of the Forest Settlement Officer.

*Final Record and Report.*

13. This final record will be prepared by the Forest Settlement Officer as soon as the decision of claims has progressed sufficiently. It should comprise for each forest separately demarcated, or where the forest tract is of great size, for each convenient section thereof, (*i*) map, (*ii*) proceeding, (*iii*) final notification. Instructions as to the form and contents of these documents are appended, and no other paper should be added to this file, excepting only orders subsequently issued by the Local Government under Section 21 of the Act.

14. All claims having been disposed of and the above record having been competed it will then only remain for the Forest Settlement Officer to move the Local Government to issue the notification contemplated by Section 19. It is necessary that the Local Government should, before taking this step, be informed of the nature of the proceedings to which its final sanction is desired. To this end the Forest Settlement Officer should draw up a brief report stating, in addition to the information required by clauses (*a*), (*b*) and (*c*) of Section 19 of the Act, the general result of his proceedings. This report should be written by way of continuation of the preliminary report submitted under paragraph 1 of this Circular

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and need not repeat matters already sufficiently explained therein. No exact form is prescribed for the report. What is required is a brief summary of so much of the proceedings as has not already been reported, and of such a nature as to satisfy the Local Government that these proceedings can appropriately be confirmed. It should notice specially the matters referred to in paragraphs 9 and 10 above, and also the extent to which expropriations (by agreement or by award) have been resorted to, and the cost and other results of such expropriations. It should be accompanied by a Draft Notification for issue under Section 19 of the Act, by a map showing the limits of the forest as finally settled on the scale and with the other details required by paragraphs 1, 3 and 5 above, and also by an English abstract of the information given under heads V and VI of the proceeding prescribed by paragraphs 1 and 3 of Appendix I. This abstract should be drawn up with some care, for it is intended to serve as a convenient guide to the officers by whom the forest will be managed. If expropriations have been made, an abstract statement, in the form prescribed by Rule XXXI of Circular No. 27 of 1882, should also be added.

15. The report should be addressed to the Commissioner of the Division, but it should be forwarded, unless the Deputy Commissioner is himself the Forest Settlement Officer, through the Deputy Commissioner, who is required to add to it both his own opinion and that of the District Forest Officer. The Commissioner before forwarding the report to the Financial Commissioner will proceed as directed in paragraph 4 of this Circular.

16. The final record (paragraph 13) should not be forwarded to the Commissioner, but should be deposited in the District Record Office at the same time as the final report is submitted. These records will be permanently preserved.

17. The files of claims (paragraph 6) will also be deposited in the District Record Office, and Part A. of these files should also be preserved permanently.

*Special Proposals.*

18. The preceding instructions relate to the necessary procedure prescribed under Chapter II of the Indian Forest Act when it is proposed or resolved to constitute a reserved forest. In carrying out this procedure a Forest Settlement Officer must carefully limit himself to ascertaining, settling and recording rights actually existing and providing for their exercise and enjoyment in the manner prescribed in the Act. But much more than this is required to enable the Local Government to judge whether after the events mentioned in Section 19 of the Act have occurred it is or is not expedient to issue a notification under that section declaring the area to be a reserved forest. The result of the procedure of the Forest Act, when rights have been recorded and maintained, is to impose great restrictions on their exercise and to materially alter the previous usages of the people. To such changes, as already observed, the people are slow to accommodate themselves, and it is therefore incumbent on the Government to satisfy itself as to the probable effect which the reservation of the area and its strict management as a reserve will have upon the requirements of the neighbourhood and the habits of the people. This can best be ascertained by the Forest Settlement Officer in the course of his inquiries for the settlement of rights. If not ascertained and reported on by him, it would have to be separately enquired into and reported on by the Deputy Commissioner or other Revenue Officer, which would only cause delay and additional expense. In addition therefore to having his record of rights in strict accordance with the Act, the Forest Settlement Officer should in a separate proceeding record his opinion on the above points. If on regarding his work from this point of view, he is of opinion that the Government ought to make certain concessions beyond what has been awarded under the strict letter of the law, it is his duty to frame recommendations accordingly and to submit them either in a special report or as an appendix to his final report required by paragraph No. 14.

19. The recomendations would usually deal with two classes of cases, *viz.*, those arising out of (1) the use of forest produce permitted as a matter of ordinary convenience in the absence of any strict management, but not supported by any clear right established by adverse enjoyment; and (2) the prospective wants of village communities or of individuals, whether members of village communities or not.

20. As regards the 1st class it is desirable to avoid, on the one hand, embarrassment to Government by hastily granting unduly liberal concessions which must ultimately be withdrawn in the interests of sound forest management; and, on the other hand, serious popular discontent by the harsh, illiberal, or undue restriction of usages, which contribute to the comfort and convenience of the adjacent population. The aim should usually be some executive arrangement giving no ground for any substantial grievance and so carefully guarded as not to infringe the recognised principles of forest management, nor to suggest claims that cannot legally be sustained.

21. The cases of the 2nd class are amongst the most difficult of any which occur in the course of a forest settlement. While it has been determined that the Forest Act does not justify the Forest Settlement Officer, as such, in providing for the prospective wants of non-existing settlers or of a future and possibly more numeous generation, it is nevertheless pointed out that he might have to take into account prospective wants in particular,

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cases, as when a claimant had established a right of such a nature that it would probably in course of time entitle him to larger benefits from a forest than he was entitled to at the time of settlement. It is to be expected that in practice many intermediate cases will arise in which the Forest Settlement Officer will rightly entertain doubts as to what should be done under the Forest Act, and what by order of Government outside the Act, and by way of executive arrangement It will be the safest plan to refer by an intermediate report for the special orders of Government (1) such doubtful cases, (2) any cases in which the results of a strict adherence to the procedure of the Forest Act would apparently conflict with some local popular custom, and (3) any cases in which claims are advanced or arrangements seem advisable not only for the present but for the prospective population of any village or tract.

22. On receipt from a Forest Settlement Officer of any intermediate or final report of the nature required by these instructions, the Deputy Commissioner (when not himself the Forest Settlement Officer) and the Commissioner of the Division will pay special attention to the questions how far the awards under the Act adequately provide for the reasonable requirements of the people, and what, if any, executive arrangements, beyond the scope of those awards, it would be expedient or equitable to make in order to meet those requirements.

23. The orders passed by Government on special proposals submitted under paragraphs 18 to 22 of this Circular should be briefly stated in the final record (see Appendix I), and if passed before submission of the final report should be recapitulated therein.

24. If in any case a Forest Settlement Officer in the course of his inquiries ascertains that difficulties and objections exist, which render the completion of the reservation probably undesirable, he should stay proceedings and submit a report through the Deputy Commissioner. This report will be dealt with by the Commissioner in the same manner as directed in paragraph 4 of this Circular for the original report.

*Conclusion.*

25. The attention of Deputy Commissioners is requested to paragraphs 3 (VII) and 4 of the appended instructions concerning the record. The duty of completing the record by the addition of a copy of the final notification will ordinarily fall to the Deputy Commissioner. And if before or about the time of issuing the final notification any instructions of the nature contemplated in paragraphs 18 to 24 have been issued by Government, which the Forest Settlement Officer has not already incorporated into head VII of the proceeding, it is the duty of the Deputy Commissioner to add them.

## APPENDIX I.

### Instructions as to the form and contents of final records prepared by Forest Settlement Officers for Reserved Forests.

The final record shall consist of a map, a proceeding and a copy of the final Notification issued under Section 19 of the Act.

2. The map shall not usually be on a smaller scale than 4 inches to the mile. It shall show distinctly boundary pillars, permanent survey marks, and physical features so far as may be convenient. The direct distance between each pair of boundary pillars shall, wherever possible, be chained and recorded on the map. The map shall also distinguish by interior boundary lines and survey numbers—

(i). Areas surrounded by the forest, but excluded from it (Chaks Khariji).

(ii). Areas from which rights have been expropriated or in which they have been maintained, or in which claims have been rejected in their entirety.

(iii). Public and private ways, water-courses, springs and watering places.

3. The proceeding shall contain the following information :—

(i). It shall quote the number and date of the Notification issued under Section 4 of the Act, and give the contents of the Notification, and the name of the Forest Settlement Officer appointed thereunder.

(ii). It shall give a list of all areas (Chaks Khariji) surrounded by the forest boundaries, but excluded from the forest, thus—

| No. on map. | Area. | Village to which it appertains. |
|---|---|---|
| | | |

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(iii). It shall give an abbreviated list of all claims rejected in entirety under Sections 10 and 11 of the Forest Act, thus—

| Description of right claimed. | Area in which claimed. | | By whom claimed (names with description). | hort abstract of order rejecting the claim. |
|---|---|---|---|---|
| | No. on map. | Area. | | |
| | | | | |

(iv). Also a list of all rights expropriated, whether expropriated under Section 10 or Section 15, thus—

| Description of right expropriated. | Area from which expropriated. | | Persons expropriated (names with description). | Short abstract of award. |
|---|---|---|---|---|
| | No. on map. | Area. | | |
| | | | | |

(v). It shall describe the rights to pasturage and rights to forest produce admitted by the Forest Settlement Officer under Section 11 of the Act, and the manner in which he has under Sections 13 and 14 directed that those rights shall be hereafter exercised, recording them in a schedule in the following form :—

| Names and description of persons to whom rights have been awarded. | Area in which awarded. | | Nature of rights with full detail of all matters covered by Section 13 of the Act. | Orders issued under Section 14 of the Act for the future exercise of these rights. |
|---|---|---|---|---|
| | No. on map. | Area. | | |
| | | | | |

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(vi). It shall describe existing rights of way public or private, and existing water-courses, also springs and watering places to which any persons have access arranging them in a schedule, thus—

| Nature of right. | Area in which exercised. | | By whom or how used. |
|---|---|---|---|
| | No. on map. | Area. | |
| | | | |

and shall declare that these rights will in future be subject to regulation as provided in Section 24 of the Forest Act.

(vii). A brief *resumé* shall be given of any special reports submitted to Government under paragraphs 19 to 24 of this Circular, and of the orders passed thereon. This *resumé* shall be in sufficient detail to guide both Revenue and Forest officials and also parties interested in these reports. Copies of the reports themselves should not be given to applicants. And any notice of opinions expressed by the reporting officers, but not approved by Government, should be excluded.

4. When the final Notification issues, a copy and translation thereof shall be added to the record. This copy shall be endorsed with a report stating the date on which and the villages in which a translation has been published as required by Section 20 of the Act.

5. The record shall be drawn up in the Vernacular language used in land revenue proceedings, and the survey shall be made on the land measure used in the land revenue records of the district in which the forest is situate.

(Note.—In the above instructions the words *names with description* mean name, father's name, caste or tribe and residence. If the entry is in favour of a whole village it may be so stated, names of individuals being omitted).

(*Financial Commissioner's Circular No.* 26 *of* 1887).

(o). *Rules for the Conservancy of Forests and Jungles in the Hill Districts of the Punjab Territories.**

1. In any Hill District within British jurisdiction, the Civil authorities have power to mark off any tract, plot, or ground, wheresoever situated, which they may consider to be specially adapted for the growth of timber or fuel.

2. The tract, plot, or ground, so marked off, may be declared to be a public preserve, denoted by boundary marks, fenced, and protected from trespass of all kinds. Within it the said authorities are empowered to prohibit, restrict, or regulate all felling and cutting, and to arrange for the development, preservation, and growth of the trees, shrubs, or brushwood, in such manner as may seem to them expedient.

3. The said authorities, within the said limits, are also competent to grant to any party privileges of cutting or felling, and to demand and receive fees from such party, and to determine the amount or rate of the fees.

4. Within the said Hill districts, the Civil authorities may proclaim, publicly, prohibition, restriction, or regulation in regard to the felling or cutting, or other injurious act for any purpose whatsoever, of any species of trees, shrub, or brush-wood, wheresoever it may be found growing, of whatever size or growth, whether grouped together or scattered about, which they may consider specially suited for the production of timber or fuel.

5. The said authorities, in regard to the said species of tree, shrub, or brush-wood, may grant privileges of felling or cutting to such parties as they may think proper, with or without the payment of fees, to be fixed as declared in rule 3.

6. No person shall be entitled to object to the foregoing rules, whether relating to enclosures or to particular species of tree, shrub, or brush-wood on the score of proprietary or manorial right, provided always that the Civil authorities do not interfere with the wood or fuel that may be really required by the occupants or owners of the land for agricultural or domestic purposes.

7. With the proviso above described, the Civil authorities within the said Hill district may prohibit, restrict, or regulate any operation which they may consider calculated to destroy or injure existing supplies of timber or fuel.

* Sanctioned in letter of the Secretary to the Government of India, No. 1789, dated 21st May 1855, and declared to be in force in the Punjab by Act IV of 1872, Schedule I.

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8 The setting fire to forest-grass, brush-wood, or other combustible substances in a manner calculated to destroy or injure existing supplies of timber or fuel, may be absolutely forbidden.

9 The villagers, the owners, and occupants of the land, may be rendered responsible for conflagrations occurring within their bounds, whether accidental or not, or by whomsoever caused, and such owner, occupant, or villager, may in this case be treated as if he had been guilty of an infraction of the rules.

10. The grazing of cattle or domestic animals of all kinds in such places, or with such license as may be, in the opinion of the Civil authorities, injurious to existing supplies of timber or fuel, may be prohibited, restricted, or regulated in such manner as may be deemed expedient, provided always that the proper grounds for the grazing or pasturing of such cattle be not interfered with.

11. The owner or possessor of cattle which may be found grazing or pasturing in contravention of the foregoing rule, or in public preserves, or in other forbidden ground, may be treated as if he had been guilty of an infraction of the rules.

12. Any person who may infringe any of the above rules for the conservancy of forest and jungle may be fined at the discretion of the Civil authority to an amount not exceeding Rs. 100 for each offence; such fine may be realized by sale of personal property; and in the event of non-realization, the offender may be imprisoned for a term not exceeding three months.

13. The Civil authorities may appoint foresters, rangers, or other officers for the purpose of enforcing these rules. Such officials shall be held to be vested with due authority to this end. They may range over and examine all forests and jungles within their jurisdiction respectively; lay information of violation of the rules; bring persons before the Civil authority who may be found infringing the said rules; and execute summonses; they will also be liable to the usual pains and penalties for the abuse of their authority.

[NOTE.—For orders issued under the authority of the above rules relating to the Hill tracts within village boundaries in the Rawalpindi district (excepting the Murree and Kahuta tahsils), see Punjab Government Notification, No. 457F., dated 10th November 1879, *Punjab Gazette*, Part I, page 667, and No. 483 F., dated 29th November 1880, *Punjab Gazette*, Part I, page 408].

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## ACT No. VIII of 1878.

(*Passed on the 8th March* 1878).

An Act to consolidate and amend the law relating to the levy of Sea Customs-duties.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to the levy of Sea Customs-duties; It is enacted as follows :—

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### CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Sea Customs Act, 1878:"

Local extent. Commencement.

It extends to the whole of British India, and shall come into force on the first day of April 1878.

Repeal of enactments.

2. The Acts mentioned in the first schedule hereto annexed are repealed to the extent specified therein.

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References to enactments repealed.

All references to any of the said Acts, in Acts passed subsequently thereto, shall be read as if made to the corresponding provisions of this Act.

Saving of appointments, &c.

All appointments, rules, declarations, exemptions, and delegations made, powers conferred, forms and conditions prescribed, values, fees, rates, and periods fixed, and notifications, instructions, directions, prohibitions, passes, and licenses issued, under any Act hereby repealed shall, if the same are in force at the time this Act comes into force, be deemed to have been respectively made, conferred, prescribed, fixed, and issued under this Act, in so far as they are consistent herewith.

Interpretation.

3. In this Act, unless there be something repugnant in the subject or context—

(*a*) "Chief Customs-Authority" denotes the person authorized to exercise, subject to the Local Government, the chief control in matters relating to Sea-customs in any place in which this Act operates :

(*b*) "Chief Customs-officer" denotes the Chief Executive Officer of Sea-customs for any port to which this Act applies :

(*c*) "Customs-collector" includes every officer of Customs for the time being in separate charge of a Custom-house, or duly authorized to perform all, or any special, duties of an officer so in charge :

(*d*) "Customs-port" means any place except Aden declared under Section 11 to be a port for the shipment and landing of goods :

(*e*) "Foreign port" means Aden and any place beyond the limits of British India :

(*f*) "Vessel" includes anything made for the conveyance by water of human beings or property :

(*g*) "Coasting-vessel" denotes any vessel proceeding from one Customs-port to another Customs-port, whether touching at any intermediate foreign port or not : or proceeding from or to a Customs-port to or from a place declared to be a port under Section 12 :

(*h*) "Master" when used in relation to any vessel, means any person, except a Pilot or Harbour Master, having command or charge of such vessel:

(*i*) "Warehousing port" means any Customs-port declared under Section 14 to be a warehousing port :

(*j*) "Warehouse" denotes any place appointed or licensed under Section 15 or Section 16.

Agent of owner of goods to be deemed owner for certain purposes.

4. When any person is expressly or impliedly authorized by the owner of any goods to be his agent in respect of such goods for all or any of the purposes of this Act, and such authorization is approved by the Customs-collector, such person shall, for such purposes, be deemed to be the owner of such goods.

When ship's agent may act for Master.

5. Anything which a Master is required or empowered to do under this Act may, with the express or implied consent of such Master and the approval of the Customs-collector, be done by a ship's agent.

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## CHAPTER II.

### APPOINTMENT AND POWERS OF OFFICERS, &c.

Appointment of Customs-officers.
Suspension and dismissal of such officers.

6. The Local Government of every place in which duties of Sea-customs are leviable, may appoint such persons as it thinks fit to be officers of Customs, and to exercise the powers conferred, and to perform the duties imposed, by this Act on such officers. Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Delegation of powers under Section 6.
Suspension and dismissal of subordinate officers.

7. The Local Government may delegate to any officer of Customs any of the powers vested in it by the first clause of Section 6. Every person appointed in exercise of such delegated power may be suspended or dismissed by the officer who appointed him.

Performance of duties of Customs-collector, where no Custom-house.

8. At any place for which there is no Custom-house, the Collector of the District and the officers subordinate to him shall, unless the Local Government otherwise directs, perform all duties imposed by this Act on a Customs-collector and other officers of Customs.

Power to make rules.

9. The Chief Customs-Authority may, from time to time, with the sanction of the Local Government, make rules consistent with this Act—

(*a*) prescribing and limiting the powers and duties of officers of Customs;

(*b*) regulating the delegation of their duties by such officers; and

(*c*) generally to carry out the provisions of this Act.

Customs-officers exempted from service on jury or inquest or as assessors.

10. No Chief Customs-Authority, or Chief Customs-officer, and no other officer of Customs whom such Chief Authority or chief officer deems it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest, or as an assessor.

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## CHAPTER III.

### APPOINTMENT OF PORTS, WHARVES, CUSTOM-HOUSES, WAREHOUSES, AND BOARDING AND LANDING-STATIONS.

Power to appoint ports, wharves and Custom-houses.

11. The Local Government may, from time to time, by notification in the official Gazette—

(*a*) declare the places within the territories administered by it which alone shall be ports for the shipment and landing of goods;

(*b*) declare the limits of such ports;

(*c*) appoint proper places therein to be wharves for the landing and shipping of goods, or of particular classes of goods;

(*d*) declare the limits of any such wharf;

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(*e*) alter the name of any such port or wharf; and

(*f*) declare what shall, for the purposes of this Act, be deemed to be a Custom-house, and the limits thereof.

Power to declare places to be ports for coasting trade.

12. The Local Government may also, from time to time, in like manner declare places to be ports for the carrying on of coasting trade with Customs-ports, or with any specified Customs-port, and for no other purposes.

Power to declare that foreign ports shall be regarded as Customs-ports for certain purposes.

13. The Governor-General in Council may from time to time direct by notification in the *Gazette of India*, that all goods or any specified class of goods imported from or exported to any foreign port to or from a Customs-port shall, with such limitations and on such conditions (if any) as he thinks fit, be treated for any of the purposes of this Act as goods imported from or exported to a Customs-port as the case may be.

NOTE.—It has been notified under this section that goods exported from British India to Portuguese India are to be treated, as regards payment of custom duties, as if they were exported to another British Indian port.—(*Government of India No. 47C., dated 4th February* 1880).

See also Government of India Notification No. 9, dated 3rd January 1880, *Gazette of India* of same date, page 16.

Power to declare warehousing ports.

14. The Local Government may from time to time declare, by notification in the official Gazette, that any Customs-port shall be a warehousing port for the purposes of this Act.

Power to appoint public warehouses.

15. At any warehousing port, the Chief Customs-Authority may, from time to time, appoint public warehouses wherein dutiable goods may be deposited without payment of duty on the first importation thereof, and may cancel such appointment.

Power to license private warehouses.

16. At any warehousing port the Chief Customs-Officer may, from time to time, license private warehouses wherein dutiable goods may be deposited as aforesaid.

Form of application for license.

Revocation of license.

Every application for a license for a private warehouse shall be in writing, and shall be drawn up in such form as is, from time to time, prescribed by the Chief Customs-Authority, and shall be signed by the applicant. Every license granted under this section may be cancelled on conviction of the licensee of any offence under this Act relating to warehouses, unless it is otherwise provided in the license, or on the expiration of one month's notice in writing given to the licensee by the Chief Customs-Officer.

Stations for Customs-officers to board and land.

17. The Chief Customs-Authority may, from time to time, appoint, in or near any Customs-port, stations, or limits at or within which vessels arriving at, or departing from, such port shall bring to for the boarding or landing of officers of Customs, and may, unless separate provision therefor has been made under the Indian Ports Act ,1875, direct at what particular place in any such port vessels, not brought into port by pilots, shall anchor or moor.

———

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## CHAPTER IV.

### PROHIBITIONS AND RESTRICTIONS OF IMPORTATION AND EXPORTATION.

Prohibitions.

18. No goods specified in the following clauses shall be brought, whether by land or sea, into British India :—

(*a*) any book printed in infringement of any law in force in British India on the subject of copyright, when the proprietor of such copyright, or his agent, has given to the Chief Customs-Authority a notice in writing, that such copyright subsists, and a statement of the date on which it will expire :

(*b*) counterfeit coin : or coin which purports to be Queen's coin of India, or to be coin made under the Native Coinage Act, 1876, but which is not of the established standard in weight or fineness :

(*c*) any obscene book, pamphlet, paper, drawing, painting, representation, figure, or article :

(*d*) articles bearing any names, brands, or marks being, or purporting to be, the names, brands, or marks of manufacturers resident in the United Kingdom or British India, and not made by such manufacturers,

Power to prohibit or restrict importation or exportation of goods.

19. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, prohibit or restrict the bringing or taking by sea or by land goods of any specified description into or out of British India or any specified part of British India.

NOTES.—(*a*): In exercise of the powers conferred by Section 19 of the Sea Customs Act 1878, the Governor-General in Council is pleased to prohibit the importation into ports in British India of cotton goods impressed with designs in imitation of Currency Notes, Promissory Notes, or Stock Notes of the Government of India. This order shall come into force from the 1st of March 1883.—(*Government of India Notification No.* 4878, *dated* 10*th November* 1882).

(*b*). In exercise of the powers conferred by Section 19 of the Sea Customs Act, 1878, the Governor-General in Council prohibits the bringing or taking by sea or by land into or out of British India of arms, ammunition, or military stores, as defined in the Indian Arms Act, 1878, except in accordance with the provisions of that Act and the rules and orders issued thereunder. —(*Government of India Notification No.* 2251, *dated* 16*th August* 1879).

(*c*). In exercise of the powers conferred by Section 19 of the Sea Customs Act, VIII of 1878, the Governor-General in Council is pleased to prohibit the bringing into British India by sea or by land of pieces of metal resembling in shape and in size, and stamped either on the obverse or on the reverse in imitation of rupees, half-rupees, quarter-rupees and eighth-rupees. This order shall come into force from the 1st June next.—(*Government of India No.* 88 S., *dated* 22*nd March* 1887, *Gazette of India of* 26*th idem*).

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## CHAPTER V.

### LEVY OF, AND EXEMPTION FROM, CUSTOMS-DUTIES.

Goods dutiable.

20. Except as hereinafter provided, Customs-duties shall be levied at such rates as may be prescribed by or under any law for the time being in force, on—

(*a*) goods imported or exported by sea into or from any Customs-port from or to any foreign port ;

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(*b*) opium, salt, or salted fish imported by sea from any Customs-port into any other Customs-port ;

(*c*) goods brought from any foreign port to any Customs-port, and, without payment of duty, there transhipped for, or thence carried to, and imported at, any other Customs-port ; and

(*d*) goods brought in bond from one Customs-port to another :

Provided that no such duties shall be levied on goods belonging to the Government.

Proviso.

21. Except as otherwise expressly provided by any law for the time being in force, goods whereof any article liable to duty under this Act forms a part or ingredient shall be chargeable with the full duty which would be payable on such goods if they were entirely composed of such article, or, if composed of more than one article liable to duty, then with the full duty which would be payable on such goods if they were entirely composed of the article charged with the highest rate of duty.

Goods partially composed of dutiable articles.

28. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, fix, for the purpose of levying duties, tariff-values of any goods exported or imported by sea on which Customs-duties are by law imposed, and alter any such values fixed by any Tariff Act for the time being in force.

Power to fix tariff-values.

NOTE.—In exercise of the powers conferred by Section 22 of the Sea Customs Act, 1878, the Governor-General in Council is pleased, in modification of Schedule A, of the Indian Tariff Act, 1875, and Notification No. 71C., dated the 6th March 1880, to declare that importations of cast steel shall henceforth be assessed for duty *ad valorem* instead of at a fixed valuation. —(*Government of India Notification No. 72C., dated 12th February* 1881).

23. The Governor-General in Council may from, time to time, by notification in the *Gazette of India*, exempt any goods imported into, or exported from, British India, or into or from any specified port therein, from the whole or any part of the Customs-duties leviable on such goods.

General power to exempt from Customs-duties.

The Local Government may, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature, to be stated in such order, any goods on which Customs-duties are leviable.

Power to authorize, in special cases, exemption from duty.

NOTE.—For exemptions under this section, see Note (*b*) at end of Act.

24. The Customs-collector may, subject to any general rules relating to the landing and shipping of passengers' baggage and the passing of the same through the Custom-house which may be made under Section 75, pass free of duty any baggage in actual use, and for this purpose may determine, subject to any such rules, whether any goods shall be treated as baggage in actual use, or as goods subject to duty.

Baggage in actual use.

25. If goods produced or manufactured in British India be imported into any Customs-port from any foreign port, such goods shall be liable to all the duties, conditions, and restrictions (if any) to which goods of the like kind and value not so produced or manufactured are liable on the first importation thereof :

Re-imported articles of country-produce.

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Provided that, if such importation takes place within three years after the exportation of such goods, and it is proved to the satisfaction of the Customs-collector that the property in such goods has continued in the person by whom, or on whose account, they were exported, the goods may be admitted without payment of duty.

Proviso.

26. Any goods produced or manufactured in British India which have been exported therefrom, and on the exportation of which any drawback of excise has been received, shall, on being imported into any Customs-port, be subjected, unless the Chief Customs-Authority in any particular case otherwise directs by special order, to payment of excise duty, at the rate to which goods of the like kind and quality are liable at such port.

Excise duty on importation of certain country goods.

27. All goods derelict, jetsam, flotsam, and wreck, brought or coming into any place in British India, shall be subject to the same duties, if any, to which goods of the like kind are for the time being subject on importation at any Customs-port, and shall in other respects be dealt with as if they were imported from a foreign port, unless it be shown to the satisfaction of the Customs-collector that such goods are the produce or manufacture of any place from which they are entitled to be admitted duty-free.

Goods derelict and wreck.

28. Provisions and stores produced or manufactured in British India, required for use on board of any vessel proceeding to any foreign port, may be shipped free of duty whether of customs or excise, in such quantities as the Custom-collector determines with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart :

Country provisions and stores may be shipped free of duty.

Provided that no rum shall be so shipped on any vessel going on a voyage of less than thirty days' probable duration.

29. On importation into, or exportation from, any Customs-post of any goods, whether liable to duty or not, the owner of such goods shall in his bill-of-entry or shipping-bill, as the case may be, state the real value, quantity, and description of such goods to the best of his knowledge and belief, and shall subscribe a declaration of the truth of such statement at the foot of such bill.

Owner to declare real value, &c., of goods in bill-of-entry or shipping-bill.

In case of doubt, the Customs-collector may require any such owner or any other person in possession of any invoice, broker's note, policy of insurance, or other document whereby the real value, quantity, or description of any such goods can be ascertained, to produce the same, and to furnish any information relating to such value, quantity, or description which it is in his power to furnish. And thereupon such person shall produce such document and furnish such information :

Power to require production of invoice, &c.

Provided that, if the owner makes and subscribes a declaration before the Customs-collector to the effect that he is unable, from want of full information, to state the real value or contents of any case, package, or parcel of goods, then the Customs-collector shall permit him, previous to the entry thereof,

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(1) to open such case, package, or parcel, and examine the contents in presence of an officer of Customs, or

(2) to deposit such case, package, or parcel in a public warehouse appointed under Section 15 without warehousing the same, pending the production of such information.

"Real value" defined.

30. For the purposes of this Act the real value shall be deemed to be—

(*a*) the wholesale cash-price, less trade-discount, for which goods of the like kind and quality are sold, or are capable of being sold, at the time and place of importation or exportation, as the case may be, without any abatement or deduction whatever, except (in the case of goods imported) of the amount of the duties payable on the importation thereof : or

(*b*) where such price is not ascertainable, the cost at which goods of the like kind and quality could be delivered at such place without any abatement or deduction except as aforesaid.

Examination of *ad valorem* goods.

31. Goods chargeable with duty upon the value thereof, but for which a specific value is not fixed by law for purpose of levying duties thereon, shall, without necessary delay, be examined by an officer of Customs. If it appears that the real value of such goods is correctly stated in the bill-of-entry or shipping-bill the goods shall be assessed in accordance therewith.

Procedure where such goods are under-valued by owner.

32. If it appears that such goods are properly chargeable with a higher rate or amount of duty than that to which they would be subject according to the value thereof as stated in the bill-of-entry or shipping-bill, such officer may detain such goods.

In every such case the detaining officer shall forthwith give notice in writing to the owner of the goods of their detention, and of the value thereof as estimated by him ; and the Customs-collector shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on payment of duty charged according to the entry of such owner, or to retain the same for the use of Government.

If the goods be retained for the use of Government, the Customs-collector shall cause the full amount stated in the bill as their real value to be paid to the owner in full satisfaction for such goods, in the same manner as if they had been transferred by ordinary sale, and shall, after due notice in the local official Gazette, or some local newspaper, and without unnecessary delay, cause them to be put up to public auction in wholesale lots for cash on delivery.

If the Customs-collector deems the highest offer made at such sale to be inadequate, he may either adjourn the sale to some other day, to be notified as aforesaid, or buy in the goods, and without unnecessary delay dispose of them for the benefit of Government.

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If the proceeds arising from such sale exceed the sum paid to the owner together with (in the case of goods imported) the duty to which the goods are liable and all charges incurred by Government in connection with them, a portion not exceeding one-half of the overplus shall, at the discretion of the Chief Officer of Customs, be payable to the officer who detected the undervaluation of the goods.

Nothing in this section shall prevent the Chief Officer of Customs, when he has reason to believe that any such under-valuation was solely the result of accident or error, from permitting the owner of the goods, on his application for that purpose, to amend such entry, on payment of such increased rate of duties on the excess of the amended over the original valuation, or on such other terms as the Chief Officer of Customs may determine.

Abatement allowed on damaged goods.

33. If, on the first examination of any such goods under Section 31, the owner thereof states in writing that such goods are, in consequence of damage sustained before delivery of the bill-of-entry, of value less than that stated in such bill, the Customs-collector, on being satisfied of the fact, may allow abatement of duty accordingly.

Reduced duty how determined.

The reduced duty to be levied on such goods may be ascertained by either of the following methods, at the option of the owner—

(*a*) the real value of such goods may be fixed on appraisement by an officer of Customs, and the duty may be assessed on the value so fixed; or

(*b*) the goods may, after due notice in the local official Gazette or some local newspaper, be sold by public auction at such time (within thirty days from the date of delivery of the bill of entry), and at such place, as the Customs-collector appoints; and the duty may be assessed on the gross amount realized by such sale, without any abatement or deduction, except (in the case of goods imported) of so much as represents the duties payable on the importation thereof.

Deterioration of tariff-value goods.

34. When any goods, the value of which has been fixed by law for the purpose of levying duties thereon, have before delivery of the bill-of-entry, deteriorated to the extent of more than one-tenth of their value, the duty on such goods shall, if the owner thereof so desires, be assessed *ad valorem*.

The real value of such goods shall be ascertained as provided in Section 33, and the duty shall be assessed thereon.

No abatement when duty is levied on quantity.

35. No abatement of duty on account of damage shall be allowed on wines, spirit, or beer, or on any other articles on which duties are levied on quantity and not on value.

Restriction on amendment of bill-of-entry or shipping-bill.

36. Except as provided in Section 94, no amendment of a bill-of-entry or shipping-bill relating to goods assessed for duty on the declared value, quantity, or description thereof, shall be allowed after such goods have been removed from the Custom-house.

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Alteration of import-duty or tariff valuation.

**37.** The rate of duty and the tariff-valuation (if any) applicable to any goods imported shall be the rate and valuation in force on the date on which the bill-of-entry thereof is delivered to the Customs-collector under Section 86:

Provided that, when such rate or valuation has been raised after the grant of port-clearance at the port of shipment, the rate and valuation applicable to such goods shall be the rate and valuation in force on the date of such grant:

Provided also that if such goods are warehoused and re-assessed under Section 115 of this Act, the rate and valuation applicable thereto shall be the rate and valuation in force at the time when application is made to clear such goods for home consumption.

*Explanation.*—A bill-of-entry shall for the purposes of this section be deemed to be delivered when it is first presented to the proper officer of Customs.

NOTE.—"The rate of duty applicable to petroleum of which the bill-of-entry is delivered within the meaning of Section 37 of the Sea Customs Act, 1878, to the Customs-collector under Section 86 of that Act after the passing of this Act, shall be the rate of duty specified in the second schedule to the Indian Tariff Act, 1882, as amended by this Act." See Act II of 1888, Section 2.

Alteration of export-duty or tariff-valuation.

**38.** The rate of duty and tariff-valuation (if any) applicable to any goods exported shall be the rate and valuation in force when a shipping-bill of such goods is delivered under Section 137.

Payment of duties short-levied or erroneously refunded.

**39.** When Customs-duties or charges have been short-levied through inadvertence, error, collusion, or misconstruction on the part of the officers of Customs, or through misstatement as to real value, quantity, or description on the part of the owner, or when any such duty, or charge, after having been levied, has been owing to any such cause erroneously refunded,

the person chargeable with the duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within three months from the date of the first assessment or making of the refund;

and the Customs-collector may refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

No refund of charges erroneously levied or paid, unless claimed within three months.

**40.** No Customs-duties or charges which have been paid and of which repayment, wholly or in part, is claimed in consequence of the same having been paid through inadvertence, error or misconstruction, shall be returned, unless such claim is made within three months from the date of such payment.

Power to give credit for and keep account-current of duties and charges.

**41.** The Customs-collector may, if he thinks fit, instead of requiring payment of Customs-duties and charges due from any mercantile firm or public body, at the time such duties and charges are payable under this Act, keep with such firm or body an account-current of such duties and charges. Such account shall be settled at intervals not exceeding one month, and such firm or body shall make a deposit or furnish security sufficient in the opinion of the Customs-collector to cover the amount which may at any time be due from them in respect of such duties and charges.

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## CHAPTER VI.

### DRAWBACK.

Drawback allowable on re-export.

42. When any goods, capable of being easily identified, which have been imported by sea into any Customs-port from any foreign port, and upon which duties of Customs have been paid on importation, are re-exported by sea from such Customs-port, to any foreign port, or as provisions or stores for use on board a ship proceeding to a foreign port, seven-eights of such duties shall, except as otherwise hereinafter provided, be repaid as drawback.

Conditions for grant of drawback.

Provided that, in every such case, the goods be identified to the satisfaction of the Customs-collector at such Customs-port, and that the re-export be made within two years from the date of importation, as shown by the records of the Custom-house, or within such extended term as the Chief Customs-Authority, on sufficient cause being shown, in any case determines.

Drawback on goods exported to Customs-port and thence to foreign port.

43. When any goods having been charged with import-duty at one Customs-port and thence exported to another, are re-exported by sea as aforesaid, drawback shall be allowed on such goods as if they had been so re-exported from the former port:

Proviso.

Provided that, in every such case, the goods be identified to the satisfaction of the officer in charge of the Custom-house at the port of final exportation, and that such final exportation be made within three years from the date on which they were first imported into British India.

Drawback of duties on wine and spirit allowed for officers of Navy.

44. A drawback of the whole of the Customs-duties shall be allowed on wine and spirit intended for the consumption of any officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine and spirit have been warehoused without payment of duty on the first entry thereof.

The quantity of wine and spirit on which drawback may be so allowed in any one year for the use of such officers shall not exceed the quantities hereinafter allowed for each such officer respectively: that is to say—

| | | |
|---|---|---|
| For every Admiral ... ... ... ... | 1,260 | *Gals.* |
| Vice-Admiral ... ... ... ... | 1,050 | „ |
| Rear-Admiral ... ... ... ... | 840 | „ |
| Captain of 1st and 2nd rate ... ... | 630 | „ |
| Captain of 3rd, 4th and 5th rate... ... | 420 | „ |
| Captain of an inferior rate ... ... | 210 | „ |
| Lieutenant or other Commanding Officer, Marine-officer, Master, Purser or Surgeon | 105 | „ |

Persons entering such wine or spirit for drawback to declare name and rank of officer claiming same.

45. Every person clearing and claiming drawback for wine or spirit, as provided in Section 44, shall state in the shipping-bill the name of the officer for whose use such wine or spirit is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed.

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All such wine and spirit shall be delivered into the charge of the proper officers of Customs at the port of shipment, to be shipped under their care, and when the officer commanding the ship has certified the receipt of such wine and spirit into his charge, and any such officer of Customs has certified the shipment, the drawback shall be paid to the person entitled to receive the same.

Transfer of wine or spirit from one Naval officer to another.

46. The Customs-collector may permit the transfer of any such wine or spirit from one Naval officer to another Naval officer on board of the same, or of any other such vessel, as part of his authorized quantity; or may permit the transhipment of any such wine or spirit from one vessel to another for the use of the same Naval officer; or the re-landing and warehousing of any such wine or spirit for future re-shipment.

The Customs-collector may also receive back the duties for any such wine or spirit, and allow the same to be cleared for home-consumption.

Provisions and stores for Her Majesty's Navy.

47. Provisions and stores for the use of Her Majesty's Navy or of any officer thereof which are subject to duty may, in like manner, be transferred, transhipped, or relanded and warehoused, free of duty; and where duties have been paid on any such provisions or stores required for shipment, drawback of such duties, whether of customs or excise, shall be allowed on receipt of an application in writing from the officer commanding the ship for which they are intended, or from some other officer duly authorized to make such application.

Indian Marine and Marine survey.

48. The provisions of Sections 44, 45, 46 and 47 as to officers of Her Majesty's Navy apply also to officers of Her Majesty's Indian Marine and Marine-Survey on board of any of the ships of such Marine or Survey proceeding to any port out of India, and the rules prescribed by Section 47 as to provisions and stores for the use of Her Majesty's Navy apply also to provisions and stores for the use of such Marine or Survey.

49. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*,—

Power to declare what goods are identifiable:

(*a*) declare what goods shall, for the purpose of this chapter, be deemed to be capable of being easily identified; and

and to prohibit drawback in case of specified foreign port.

(*b*) prohibit the payment of drawback upon the re-exportation of goods to any specified foreign port in India.

NOTE.—See Government of India No. 77 dated 7th May 1879, *Gazette of India* of 10th idem, page 334, and No. 1117, dated 10th June 1881, *Gazette of India* of 11th idem, page 227.

When no drawback allowed.

50. Notwithstanding anything hereinbefore contained, no drawback shall be allowed—

(*a*) upon goods not included in the export-manifest, or

(*b*) where the goods to be exported are of less value than the amount of drawback claimed, or

(*c*) where the claim is for drawback amounting, in respect of any single shipment, to less than five rupees, and the Customs-collector thinks fit to reject it, or

(*d*) on salt, salted fish, or opium.

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51. No drawback shall be allowed unless the claim to receive such drawback be made and established at the time of re-export.

Time to claim drawback.

No such payment of drawback shall be made until the vessel carrying the goods has put out to sea, or unless payment be demanded within six months from the date of entry for shipment.

When payment made.

52. Every person, or his duly authorized agent, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been re-landed and are not intended to be re-landed at any Customs-port, and that such person was at the time of entry outwards and shipment, and continues to be, entitled to drawback thereon.

Declaration by parties claiming drawback.

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## CHAPTER VII.

### Arrival and Departure of Vessels.

*Arrival and entry of vessel inwards.*

53. The Local Government may, by notification in the local official Gazette, fix a place in any river or port, beyond which no vessel arriving shall pass until a manifest has been delivered to the Pilot, officer of Customs, or other person duly authorized to receive the same.

Power to fix places beyond which inward-bound vessels are not to proceed until manifest delivered.

If, in any river or port wherein a place has been fixed by the Local Government under this section, the Master of any vessel arriving remains outside or below the place so fixed, such Master shall, nevertheless, within twenty-four hours after the vessel anchors, deliver a manifest to the Pilot, officer of Customs, or other person authorized to receive the same.

Delivery of manifest when vessel anchors below place so fixed.

54. If any vessel arrives at any Customs-port in which a place has not been so fixed, the Master of such vessel shall, within twenty-four hours after such vessel has anchored within the limits of the port, deliver a manifest to the Pilot, officer of Customs, or other person authorized to receive the same.

Delivery of manifest where no place has been so fixed.

55. Every manifest shall be signed by the Master, shall specify all goods imported in such vessel, showing separately all goods (if any) intended to be landed, transhipped or taken on to another port, and all ships' stores intended for consumption in port or on the homeward voyage, and shall contain such further particulars, and be made out in such form, as the Chief Customs-Authority may from time to time direct.

Signature and contents of manifest.

The Customs-collector shall permit the Master to amend any obvious error in the manifest, or to supply any omission which in the opinion of such Collector results from accident or inadvertence, by furnishing an amended or supplementary manifest, and may, if he thinks fit, levy thereon such fee as the Chief Customs-Authority from time to time directs. Except as herein provided, no import-manifest shall be amended.

Amendment of errors in manifest.

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56. The person receiving a manifest under Section 53 or 54 shall countersign the same and enter thereon such particulars as the Chief Customs-Authority from time to time directs in this behalf.

Duty of person receiving manifest.

5. No vessel arriving in any Customs-port shall be allowed to break bulk until a manifest has been delivered as hereinbefore provided; nor until a copy of such manifest, together with an application for entry of such vessel inwards, has been presented by the Master to the Customs-collector, and an order has been given thereon for such entry.

Bulk not to be broken until manifest, &c., delivered, and vessel entered inwards.

58. The Master shall, if required so to do by the Customs-collector at the time of presenting such application, deliver to the Customs-collector the bill of lading or a copy thereof for every part of the cargo laden on board, and any port-clearance, cockett, or other paper granted in respect of such vessel at the place from which she is stated to have come, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as are put to him by such officer.

Master, if required, to deliver bill of lading, &c., to Customs-collector, and answer questions.

The Customs-collector may, if any requisition or question made or put by him under this section is not complied with or answered, refuse to grant such application.

59. Notwithstanding anything contained in Section 57, the Customs-collector may grant, prior to receipt of the manifest, and to the entry inwards of the vessel, a special pass permitting bulk to be broken.

Special pass for breaking bulk.

The granting of such pass shall be subject to such rules as may, from time to time, be made by the Chief Customs-Authority.

60. Notwithstanding anything contained in Section 53, 54, 57 or 58, the Customs-collector may accept from the ship's agent, in lieu of the Master, delivery of the manifest or of any other document required by those sections to be delivered by the Master.

Manifest, &c., may be delivered by ship's agent.

*Entry outwards, port-clearance, and departure of vessels.*

61. No vessel shall take on board any part of her export-cargo, until a written application for entry of such vessel outwards, subscribed by the Master of such vessel, has been made to the Customs-collector, or before an order has been given thereon by such officer for such entry. Every application made under this section shall specify the name, tonnage, and national character of the vessel, the name of the Master, and the name of every place for which cargo is to be shipped.

Order for entry outwards to be obtained before export-cargo is shipped.

62. No vessel, whether laden or in ballast, shall depart from any Customs-port until a port-clearance has been granted by the Customs-collector or other officer duly authorized to grant the same. And no Pilot shall take charge of any vessel proceeding to sea, unless the Master of such vessel produces a port-clearance.

No vessel to depart without port-clearance. No pilot to take charge of vessel proceeding to sea without production of port-clearance.

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Application for port-clearance.

63. Every application for port-clearance shall be made by the Master at least twenty-four hours before the intended departure of the vessel.

Master on applying for port-clearance to deliver documents and answer questions.

The Master shall at the time of applying for port-clearance—

(*a*) deliver to the Customs-collector a manifest in duplicate in such form as may, from time to time, be prescribed by the Chief Customs-Authority, signed by such Master, specifying all goods to be exported in the vessel, and showing separately all goods and stores entered in the import-manifest, and not landed or consumed on board or transhipped:

(*b*) deliver to the Customs-collector such shipping bills or other documents as such Customs-collector, acting under the general instructions of such chief Customs-Authority, requires; and

(*c*) answer to the proper officer of Customs such questions touching the departure and destination of the vessel as are demanded of him.

The provisions of Section 55 relating to the amendment of import-manifests shall, *mutatis mutandis*, apply also to export-manifests delivered under this section.

Power to refuse port-clearance.

64. The Customs-collector may refuse port-clearance to any vessel until—

(*a*) the provisions of Section 63 are complied with;

(*b*) all port-dues and other charges and penalties due by such vessel, or by the owner or Master thereof, and all duties payable in respect of any goods shipped therein, have been duly paid, or their payment secured by such guarantee, or by a deposit at such rate, as such Customs-collector directs;

(*c*) the ship's agent (if any) delivers to the Customs-collector a declaration in writing to the effect that he will be liable for any penalty imposed under Section 167, No. 17, and furnishes security for the discharge of the same;

(*d*) the ship's agent (if any) delivers to the Customs-collector a declaration in writing to the effect that such agent is answerable for the discharge of all claims for damage or short delivery which may be established by the owner of any goods comprised in the import-cargo in respect of such goods.

A ship's agent delivering a declaration under clause (*c*) of this section shall be liable to all penalties which might be imposed on the Master under Section 167, No. 17, and a ship's agent delivering a declaration under clause (*d*) of this section shall be bound to discharge all claims referred to in such declaration.

Grant of port-clearance.

65. When the Customs-collector is satisfied that the provisions of Section 63, and if necessary of clause (*b*) and (*c*) and (*d*) of Section 64, have been complied with, he shall grant a port-clearance to the Master, and shall return at the same time to such Master one copy of the manifest duly countersigned by the proper officer of Customs.

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66. Notwithstanding anything contained in Sections 64 and 65, the Customs-collector may (subject to such rules as the Chief Customs-Authority may, from time to time, prescribe) grant a port-clearance to the Master when the ship's agent furnishes such security as the Customs-collector deems sufficient for duly delivering, within five days from the date of such grant, the manifest and other documents specified in Section 63.

Grant of port-clearance on security of ship's agent.

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## CHAPTER VIII.

### General Provisions affecting Vessels in Port.

67. The Customs-collector at any Customs-port may at any time depute at his discretion one or more officers of Customs to board any vessel in or arriving at such port. Every officer of Customs so sent shall remain on board of such vessel by day and by night unless or until the Customs-collector otherwise orders.

Power to depute Customs-officer to board ships. Duty of such officer.

68. Whenever an officer of Customs is so deputed on board of any vessel, the Master of such vessel shall be bound to receive on board such officer, and one servant of such officer, and to provide such officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board.

Officer and servant to be received. Accommodation of officer and servant.

69. Every officer of Customs so deputed shall have free access to every part of the vessel, and may fasten down any hatchway or entrance to the hold, and mark any goods before landing, and lock up, seal, mark, or otherwise secure any goods on board of such vessel.

Officers of Customs to have free access to every part of ship, and may seal and secure goods.

If any box, place, or closed receptacle in any such vessel be locked, and the key be withheld, such officer shall report the same to the Customs-collector, who may thereupon issue to the officer on board, or to any other officer under his authority, a written order to search.

Power to authorize search, and opening of locks.

On production of such order, the officer bearing the same may require that any such box, place, or closed receptacle be opened in his presence; and if it be not opened upon his requisition, he may break open the same.

70. Unless with the written permission of the Customs-collector, or in accordance with a general permission granted under Section 74, no goods, other than passengers' baggage, or ballast urgently required to be shipped for the vessel's safety, shall be shipped or water-borne to be shipped or discharged from any vessel in any Customs-port, except in the presence of an officer of Customs.

Goods not to be shipped, discharged or water-borne except in presence of officer.

71. When an officer of Customs is deputed under Section 67 to remain on board a vessel, the tonnage of which does not exceed six hundred tons, a period of thirty working days, reckoned from the date on which he

Period allowed for discharge and shipment of cargo.

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boards such vessel, or such additional period as the Customs-collector directs, shall be allowed for the discharge of import-cargo and the shipment of export-cargo on board of such vessel.

One additional day shall, in like manner, be allowed for every fifty tons in excess of six hundred. No charge shall be made for the services of a single officer of Customs for such allowed number of working days, or for the services of several such officers (if available) for respective periods not exceeding in the aggregate such allowed number of working days.

Consequence of exceeding same.

If the period occupied in the discharge and shipment of cargo be in excess of thirty working days, together with the additional period (if any) allowed under this section, the vessel shall be charged with the expense of the officer of Customs at a rate not exceeding five rupees per diem (Sundays and holidays excepted) for such excess period.

Allowance for period during which vessel is laid up.

In calculating any period allowed, or any charge made, under this section, the period (if any) during which a vessel, after the completion of the discharge of import-cargo, and before commencing the shipment of export-cargo, is laid up by the withdrawal of the officer of Customs, upon application from the Master, shall be deducted.

Goods not to be landed, &c., on Sundays or holidays without permission, nor except within fixed hours.

**72.** Except with the written permission of the Customs-collector, no goods, other than passengers' baggage, shall in any Customs-port be discharged from any vessel, or be shipped or water-borne to be shipped—

(*a*) on any Sunday or on any holiday or day on which the discharge or shipping of cargo, as the case may be, is prohibited by the Chief Customs-Authority ;

(*b*) on any day, except between such hours as such authority from time to time appoints by notification in the official Gazette.

Goods not to be shipped, &c., except at wharves.

**73.** No goods shall in any Customs-port be landed at any place other than a wharf or other place duly appointed for that purpose, and, unless with the written permission of the Customs-collector, or when a general permission has been granted under Section 74, no goods shall in any Customs-port be shipped or water-borne to be shipped from any place other than a wharf or other place duly appointed for that purpose.

Power to exempt from Sections 70 and 73.

**74.** Notwithstanding anything contained in Section 70 or 73, the Chief Customs-Authority may, by notification in the local official Gazette, give general permission for goods to be shipped or water-borne to be shipped in any Customs-port from all or any places not duly appointed as wharves, and without the presence or authority of an officer of Customs.

Power to make rules regarding baggage and mails.

**75.** The Chief Customs-Authority may from time to time make rules for the landing and shipping of passengers' baggage and the passing of the same through the Customs-house ; and for the landing, shipping, and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger vessels.

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Landing-fees.

When any baggage or parcels is or are made over to an officer of Customs for the purpose of being landed, a fee of such amount as the Local Government from time to time directs shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom-house.

Boat-note.

76. When any goods are water-borne for the purpose of being landed from any vessel and warehoused or cleared for home-consumption, or of being shipped for exportation on board of any vessel, there shall be sent, with each boat-load or other separate despatch, a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof. Each boat-note for goods to be landed shall be signed by an officer of the vessel, and likewise by the officer of Customs on board, if any such officer be on board, and shall be delivered on arrival to any officer of Customs authorized to receive the same.

Each boat-note for goods to be shipped shall be signed by the proper officer of Customs, and if an officer of Customs is on board of the vessel on which such goods are to be shipped, shall be delivered to such officer. If no such officer be on board, every such boat-note shall be delivered to the Master of the vessel, or to an officer of the vessel appointed by him to receive it.

The officer of Customs who receives any boat-note of goods landed, and the officer of Customs, Master, or other officer, as the case may be, who receives any boat-note of goods shipped, shall sign the same and note thereon such particulars as the Chief Customs-Authority may, from time to time, direct. The Local Government may, from time to time, by notification in the local official Gazette, suspend the operation of this section in any Customs-port or part thereof.

Goods water-borne to be forthwith landed or shipped.

77. All goods water-borne for the purpose of being landed or shipped shall be landed or shipped without any unnecessary delay.

Such goods not to be transhipped without permission.

78. Except in cases of imminent danger, no goods discharged into or loaded in any boat for the purpose of being landed or shipped shall be transhipped into any other boat without the permission of an officer of Customs.

Power to prohibit plying of unlicensed cargo-boats.

79. The Local Government may declare with regard to any Customs-port, by notification in the local official Gazette, that after a date therein specified, no boat not duly licensed and registered shall be allowed to ply as a cargo-boat for the landing and shipping of merchandize within the limits of such port.

Issue of licenses and registration of cargo-boats.

In any port with regard to which such notification has been issued, the Chief Officer of Customs or other officer whom the Local Government appoints in this behalf, may, subject to such rules and on payment of such fees as the Local Government from time to time prescribes by notification in the local official Gazette, issue licenses for, and register, cargo-boats. Such officer may also, subject to rules so prescribed, cancel any license so issued.

Power to require goods to be weighed or measured on board before landing or after shipment.

80. The Customs-collector may, whenever he thinks fit, require that goods stowed in bulk, and brought by sea or intended for exportation, shall be weighed or measured on board ship before landing or after shipment, and may levy duty according to the result of such weighing or measurement.

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## CHAPTER IX.

### Of Discharge of Cargo and Entry inwards of Goods.

Discharge of cargo may commence on receipt of due permission.

81. When an order for entry inwards of any vessel which has arrived in any Customs-port, or a special pass permitting such vessel to break bulk, has been given, the discharge of the cargo of such vessel may be proceeded with.

Goods not to leave ship unless entered in manifest

82. Except as otherwise provided in this Act, no goods shall be allowed to leave any such vessel, unless they are entered in the original manifest of such vessel, or in an amended or supplementary manifest received under Section 55.

Procedure in respect of goods not landed within time allowed.

83. If the owner of any goods (except such as have been shown in the import manifest as not to be landed) does not land such goods within such period as is specified in the bill of lading of such goods, or if no period is so specified within such number of working days, not exceeding fifteen, after the entry of the vessel importing the same, as the Local Government from time to time appoints by notification in the official Gazette, or if the cargo of any vessel, with the exception of only a small quantity of goods has been discharged previously to the expiration of the period so specified, or appointed, as the case may be,—the Master of such vessel or, on his application, the proper officer of Customs, may then carry such goods to the Custom-house, there to remain for entry. The Customs-collector shall thereupon take charge of and grant receipts for such goods; and if notice in writing has been given by the Master that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, the Customs-collector shall hold such goods until he receives notice in writing that the said charges are paid.

Power to land small parcels.

84. At any time after the arrival of any vessel, the Customs-collector may, with the consent of the Master of such vessel, cause any small package or parcel of goods to be carried to the Custom-house, there to remain for entry, in charge of the officers of Customs, during the remainder of the working days allowed under this Act for the landing of such package or parcel.

Notice regarding unclaimed packages.

If any package or parcel so carried to the Custom-house remains unclaimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master may give such notice as is provided in Section 83, and the officer in charge of the Custom-house shall thereupon hold such package or parcel as provided in that section.

Power to permit immediate discharge.

85. Notwithstanding anything contained in Sections 83 and 84, the Customs-collector in any Customs-port to which the Local Government, by notification in the local official Gazette, declares this section to be applicable, may permit the Master of any vessel immediately on receipt of an order under Section 57 or special pass under Section 59, to discharge the cargo of such vessel or any portion thereof into the custody of the ship's agents if willing to receive the same, for the purpose of landing the same forthwith—

(a) at the Custom-house or any specified landing-place or wharf; or

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(b) at any landing place or wharf belonging to any Port Commissioners, Port Trust, or other public body or Company.

Any ship's agent so receiving such cargo or portion shall be bound to discharge all claims for damage or short delivery which may be established in respect of the same by the owner thereof, and shall be entitled to recover from such owner his charges for service rendered, but not for commission or the like, where any agent for the landing of such cargo or portion has been previously appointed by the owner and such appointment is unrevoked. The Customs-collector shall take charge of all goods discharged under clause (a) of this section, and otherwise proceed in relation thereto as provided in Sections 83 and 88. A public body or company at whose landing place or wharf any goods are discharged under clause (b) of this section, shall not permit the same to be removed without an order in writing from the Customs-collector.

Entry for home-consumption or warehousing.

86. The owner of any goods imported shall, on the landing there of from the importing ship, make entry of such goods for home-consumption or warehousing by delivering to the Customs-collector a bill of entry thereof in duplicate, in such form and containing such particulars, in addition to the particulars specified in Section 29, as may, from time to time, be prescribed by the Chief Customs-Authority.

The particulars of such entry shall correspond with the particulars given of the same goods in the manifest of the ship.

Assessment of dutiable goods.

87. On the delivery of such bill the duty (if any) leviable on such goods shall be assessed, and the owner of such goods may then proceed to clear the same for home-consumption, or warehouse them, subject to the provisions hereinafter contained.

Procedure in case of goods not cleared or warehoused within four months after entry of vessel.

88. If any goods are not entered and cleared for home-consumption, or warehoused, within four months from the date of entry of the vessel, such goods may, after due notice to the owner, if his address can be ascertained, and in the local official Gazette, be sold by public auction, and the proceeds thereof shall be applied, first, to the payment of freight, primage, and general average, if the goods are held by the Customs-collector subject to such charges under notice given under Section 83, 84 or 85; next, to the payment of the duties which would be leviable on such goods if they were then cleared for home-consumption, and next to the payment of the other charges (if any) payable to the Customs-collector in respect of the same.

The surplus, if any, shall be paid to the owner of the goods, on his application for the same; provided that such application be made within one year from the sale of the goods, or that sufficient cause be shown for not making it within such period.

Power to direct sale of perishable goods.

If any goods of which the Customs-collector has taken charge under Section 83, 84, or 85 be of a perishable nature, the Customs-collector may at any time direct the sale thereof, and shall pay the proceeds in like manner:

Proviso.

Provided that, where any goods liable to be sold under this section are arms, ammunition, or military stores, they may be sold or otherwise diposed of at such place (whether within or without British India) and in such manner, as the Local Government may from time to time direct:

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Provided also, that nothing in this section shall authorize the removal for home-consumption of any dutiable goods without payment of duties of Customs thereon.

## CHAPTER X.

### OF CLEARANCE OF GOODS FOR HOME CONSUMPTION.

Clearance for home-consumption.

89. When the owner of any goods entered for home-consumption, and (if such goods be liable to duty) assessed under Section 87, has paid the import-duty (if any) assessed on such goods and any charges payable under this Act in respect of the same, the Customs-officer may make an order clearing the same; and such order shall be sufficient authority for the removal of such goods by the owner.

## CHAPTER XI.

### WAREHOUSING.

*Of the admission of goods into a warehouse.*

Application to warehouse.

90. When any dutiable goods have been entered for warehousing and assessed under Section 87, the owner of such goods may apply for leave to deposit the same in any warehouse appointed or licensed under this Act.

Form of application.

91. Every such application shall be in writing signed by the applicant, and shall be in such form as is from time to time prescribed by the Chief Customs-Authority.

Warehousing bond.

92. When any such application has been made in respect of any goods, the owner of the goods to which it relates shall execute a bond, binding himself in a penalty of twice the amount of duty assessed under Section 87 on such goods,

(*a*) to observe all rules prescribed by this Act in respect of such goods;

(*b*) to pay, on demand, all duties, rent, and charges claimable on account of such goods under this Act, together with interest on the same from the date of demand, at such rate not exceeding six per cent. per annum, as is for the time being fixed by the Chief Customs-Authority; and

(*c*) to discharge all penalties incurred for violation of the provisions of this Act in respect of such goods.

Form of bond.

Every such bond shall be in the form marked A hereto annexed, or, when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs-Authority,

and shall relate to the cargo or portion of the cargo of one vessel only.

Forwarding of goods to warehouse.

93. When the provisions of Sections 91 and 92 have been complied with in respect of any goods, such goods shall be forwarded in charge of an officer of Customs to the warehouse in which they are to be deposited.

A pass shall be sent with the goods specifying the name of the importing vessel and of the bonder, themarks, numbers, and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited.

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Receipt of goods at warehouse.

**94.** On receipt of the goods, the pass shall be examined by the warehouse-keeper, and shall be returned to the Customs-collector. No package, butt, cask, or hogshead shall be admitted into any warehouse unless it bear the marks and numbers specified in, and otherwise correspond with, the pass for its admission. If the goods be found to correspond with the pass, the warehouse-keeper shall certify to that effect on the pass, and the warehousing of such goods shall be deemed to have been completed. If the goods do not so correspond, the fact shall be reported by the warehouse-keeper for the orders of the Customs collector, and the goods shall either be returned to the Custom-house in charge of an officer of Customs, or kept in deposit pending such orders, as the warehouse-keeper deems most convenient. If the quantity or value of any goods has been erroneously stated in the bill-of-entry, the error may be rectified at any time before the warehousing of the goods is completed, and not subsequently.

Goods how warehoused.

**95.** Except as provided in Section 100, all goods shall be warehoused in the packages, butts, casks, or hogsheads, in which they have been imported.

Warrant to be given when goods are warehoused.

Form of warrant.

**96.** Whenever any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper, or, in the case of the Bengal Bonded Warehouse Association, the Secretary of the said Association, shall deliver a warrant signed by him as such to the person lodging the goods. Such warrant shall be in the form B hereto annexed, and shall be transferable by endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same. The Local Government may, by notification in the local official Gazette, exempt salt and salted fish from the operation of this section, and may in like manner cancel such exemption.

*Rules relating to goods in a warehouse.*

Access of Customs-officer to private warehouse.

**97.** The Customs-collector, or any officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Act.

Power to cause packages lodged in warehouse to be opened and examined.

**98.** The Customs-collector may at any time by order in writing direct that any goods or packages lodged in any warehouse shall be opened, weighed, or otherwise examined; and after any goods have been so opened or examined, may cause the same to be sealed or marked in such manner as he thinks fit.

When any goods have been so sealed and marked after examination, they shall not be again opened without the permission of the Customs-collector; and when any such goods have been opened with such permission, the packages shall, if he thinks fit, be again sealed or marked as before.

Access of owners to warehoused goods.

**99.** Any owner of goods lodged in a warehouse shall, at any time within the hours of business, have access to his goods in presence of an officer of Customs, and an officer of Customs shall, upon application for the purpose being made in writing to the Customs-collector, be deputed to accompany such owner.

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When an officer of Customs is specially employed to accompany such owner, a sum sufficient to meet the expense thereby incurred shall, if the Customs-collector so require, be paid by such owner to the Customs-collector, and such sum shall, if the Customs-collector so direct, be paid in advance.

Owner's power to deal with warehoused goods.

100. With the sanction of the Customs-collector, and after such notice given, and under such rules and conditions as the Chief Customs-Authority from time to time prescribes, any owner of goods may, either before or after warehousing the same,

(*a*) sort, separate, pack, and repack the goods, and make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be repacked in the packages in which they were imported, or in such other packages as the Customs-collector permits) ;

(*b*) fill up any casks of wine, spirit, or beer from any casks of the same secured in the same warehouse ;

(*c*) mix any wines or spirit of the same sort secured in the same warehouse, erasing from the cask all import-brands, unless the whole of the wine or spirit so mixed be of the same brand ;

(*d*) bottle off wine or spirit from any casks ;

(*e*) take such samples of goods as may be allowed by the Customs-collector with or without entry for home-consumption, and with or without payment of duty, except such as may eventually become payable on a deficiency of the original quantity.

After any such goods have been so separated and repacked in proper or approved packages, the Customs-collector may, at the request of the owner of such goods, cause or permit any refuse, damaged, or surplus goods remaining after such separation or repacking (or, at the like request, any goods which may not be worth the duty) to be destroyed, and may remit the duty payable thereon.

Payment of rent and warehouse-dues.

101. If goods be lodged in a public warehouse, the owner shall pay monthly, on receiving a bill or written demand for the same from the Customs-collector or other officer deputed by him in that behalf, rent and warehouse-dues at such rates as the Chief Customs-Authority or such officer of Customs as such Authority from time to time appoints in this behalf may fix. A table of the rates of rent and warehouse-dues so fixed shall be placed in a conspicuous part of such warehouse.

If any bill for rent or warehouse-dues presented under this section is not discharged within ten days from the date of presentation, the Customs-collector may, in the discharge of such demand (any transfer or assignment of the goods notwithstanding) cause to be sold by public auction, after due notice in the local official Gazette, such sufficient portion of the goods as he may select.

Out of the proceeds of such sale, the Customs-collector shall first satisfy the demand for the discharge of which the sale was ordered, and shall then pay over the surplus (if any) to the owner of the goods :

Provided that the application for such surplus be made within one year from the date of the sale of the goods, or that sufficient cause be shown for not making it within such period.

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Goods not to be taken out of warehouse, except as provided by this Act.

102. No warehoused goods shall be taken out of any warehouse, except on clearance for home-consumption or shipment, or for removal to another warehouse, or as otherwise provided by this Act.

Period for which goods may remain warehoused under bond.

103. Any goods warehoused may be left in the warehouse in which they are deposited, or in any warehouse to which they may in manner hereinafter provided be removed, till the expiry of three years after the date of the bond executed in relation to such goods under Section 92. The owner of any goods remaining in a warehouse on the expiry of such period shall clear the same for home-consumption or shipment in manner hereinafter provided :

Goods in private warehouse on cancellation of license.

Provided that when the license for any private warehouse is cancelled, and the Customs-collector gives notice of such cancelment to the owner of any goods deposited in such warehouse, such owner shall in manner hereinafter provided, and within seven days from the date on which such notice is given, remove such goods to another warehouse or clear them for home-consumption or shipment.

*Of the removal of goods from one warehouse to another.*

Power to remove goods from one warehouse to another in same port.

104. Any owner of goods warehoused under this Act may, at any time within three years from the date of the bond executed in respect of such goods under Section 92, and with the permission of the Chief Customs-Officer, and on such conditions and after giving such security (if any) as such officer directs, remove goods from one warehouse to another warehouse in the same port.

When any owner desires so to remove any goods, he shall apply for permission to do so in such form as the Chief Customs-Authority from time to time prescribes.

Power to remove goods from one port to another.

105. Any owner of goods warehoused at any warehousing port may from time to time, within the said period of three years, remove the same by sea or by inland carriage, in order to be re-warehoused at any other warehousing port.

Procedure.

When any owner desires so to remove any goods for such purpose, he shall apply to the Chief Customs-Officer, stating the particulars of the goods to be removed, and the name of the port to which it is intended that they shall be removed, together with such other particulars, and in such manner and form, as the Chief Customs-Authority from time to time prescribes.

Transmission of account of goods to officers at port of destination.

106. When permission is granted for the removal of any goods from one warehousing port to another under Section 105, an account containing the particulars thereof shall be transmitted by the proper officer of the port of removal to the proper officer of the port of destination ;

Bond for due arrival and re-warehousing.

and the person requiring the removal shall before such removal enter into a bond, with one sufficient surety, in a sum equal at least to the duty chargeable on such goods for the due arrival and re-warehousing thereof at the port of destination within such time as the Chief Customs-Authority directs.

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Such bond may be taken by the proper officer, either at the port of removal or at the port of destination, as best suits the convenience of the owner.

If such bond is taken at the port of destination, a certificate thereof, signed by the proper officer of such port, shall, at the time of the removal of such goods, be produced to the proper officer at the port of removal, and such bond shall not be discharged unless such goods are produced to the proper officer, and duly re-warehoused at the port of destination within the time allowed for such removal or are otherwise accounted for to the satisfaction of such officer; nor until the full duty due upon any deficiency of such goods, not so accounted for, has been paid.

Remover may enter into a general bond.

107. The Chief Customs-Authority may permit any person desirous of removing warehoused goods to enter into a general bond, with such sureties, in such amount, and under such conditions as the Chief Customs-Authority approves, for the removal, from time to time, of any goods from one warehouse to another, either in the same or in a different port, and for the due arrival and re-warehousing of such goods at the port of destination within such time as such Authority directs.

Goods on arrival at port of destination to be subject to same laws as goods on first importation.

108. Upon the arrival of warehoused goods at the port of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules are applicable, which regulate the entry and warehousing of such last-mentioned goods.

Bond under Section 92 to continue in force notwithstanding removal.

109. Every bond executed under Section 92 in respect of any goods shall, unless the Chief Officer of Customs in any case deems a fresh bond to be necessary, continue in force, notwithstanding the consequent removal of such goods to another warehouse or warehousing port.

*Clearance for home-consumption or shipment.*

Clearance of bonded goods for home-consumption.

110. Any owner of goods warehoused may, at any time within three years from the date of the bond executed under Section 92 in respect of such goods, clear such goods for home-consumption by paying

(*a*) the duty assessed on such goods under Section 87, or where the duty on such goods is altered under the provisions hereinafter contained, such altered duty; and

(*b*) all rent, penalties, interest, and other charges payable to the Customs-collector in respect of such goods.

Clearance of same for shipment to foreign port.

111. Any owner of goods warehoused may, at any time within three years from the date of the bond executed under Section 92 in respect of such goods, clear such goods for shipment to a foreign port on payment of all rent, penalties, interest, and other charges payable as aforesaid and without payment of import duty on the same:

Provided that the Governor-General in Council may prohibit the shipment for exportation to any specified foreign port of warehoused goods in respect of which payment of drawback or transhipment has been prohibited under Section 49 or 134 respectively.

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Clearance of same for shipment as provisions, &c., on vessels proceeding to foreign ports.

112. Provisions and stores warehoused at the time of importation may, within the said period of three years, be shipped without payment of duty for use on board of any vessel proceeding to a foreign port.

Form of application for clearance of goods.
Application when to be made.

113. Application to clear goods from any warehouse for home-consumption or for shipment shall be made in such form as the Chief Customs-Authority from time to time prescribes. Such application shall ordinarily be made to the Customs-collector at least twenty-four hours before it is intended so to clear such goods.

Re-assessment of warehoused goods when damaged.

114. If any goods upon which duties are leviable *ad valorem* or on a tariff-valuation receive damage through unavoidable accident after they have been entered for warehousing and assessed under Section 87, and before they are cleared for home-consumption, they shall, if the owner so desires, be re-assessed for duty according to their actual value, and a new bond for the same may, at the option of the owner, be executed for the unexpired term of warehousing.

Re-assessment on alteration of duty or tariff-valuation.

115. If after any goods entered for warehousing have been assessed under Section 87, any alteration is made in the duty leviable upon such goods or in the tariff-valuation (if any) applicable thereto, such goods shall be re-assessed in accordance with the second proviso to Section 37.

Allowance in case of wine, spirit, beer, or salt.

116. If it appear at the time of clearing any wine, spirit, beer, or salt from any warehouse for home-consumption that there exists a deficiency not otherwise accounted for to the satisfaction of the Customs-collector, an allowance on account of ullage and wastage shall be made in adjusting the duties thereon, as follows (namely) :—

(*a*) upon wine, spirit, and beer in cask to an extent not exceeding the rates specified below, or such other rates as may from time to time be prescribed in this behalf by the Local Government and notified in the official Gazette :

| | | | |
|---|---|---|---|
| For any time not exceeding | 6 months | ... | 2½ per cent. |
| Exceeding 6 months and not exceeding | 12 ,, | ... | 5 ,, |
| Exceeding 12 months and not exceeding | 18 ,, | ... | 7½ ,, |
| Exceeding 18 months and not exceeding | 2 years | ... | 10 ,, |
| Exceeding 2 years and not exceeding | 3 ,, | ... | 12 ,, |

(*b*) in the case of salt warehoused in a public warehouse, only the amount actually cleared shall be charged with Customs-duties ;

(*c*) in the case of salt warehoused in a private warehouse, wastage shall be allowed at such rate as may be prescribed from time to time by the Local Government and notified in the local official Gazette.

Further special allowance.

117. When any wine, spirit, beer, or salt lodged in a warehouse is found to be deficient at the time of the delivery therefrom, and such deficiency is proved to be due solely to ullage or wastage, the Chief Customs-Authority may direct, in respect of any such article, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in Section 116.

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*Of the forfeiture and discharge of the bond.*

When goods are improperly removed from warehouses or allowed to remain beyond time fixed, or lost or destroyed, or taken as samples, Collector to demand duty, &c.

**118.** If any warehoused goods are removed from the warehouse in contravention of Section 102; or if any such goods have not been removed from the warehouse at the expiration of the time during which such goods are permitted by Section 103 to remain in such warehouse; or if any goods in respect of which a bond has been executed under Section 92 and which have not been cleared for home-consumption, or shipment, or removed under this Act, are lost or destroyed otherwise than as provided in Section 100 or as mentioned in Section 122, or are not accounted for to the satisfaction of the Customs-collector, or if any such goods have been taken under Section 100 as samples without payment of duty, the Customs-collector may thereupon demand, and the owner of such goods shall forthwith pay, the full amount of duty chargeable on account of such goods, together with all rent, penalties, interest, and other charges payable to the Customs-collector on account of the same.

Procedure on failure to pay duty, &c.

**119.** If any owner fails to pay any sum so demanded, the Customs-collector may forthwith either proceed upon the bond executed under Section 92, or cause such portion as he thinks fit of the goods (if any) in the warehouse on account of which the amount is due, to be detained with a view to the recovery of the demand; and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the owner), the goods so detained may be sold by public auction duly advertised in the local official Gazette.

The nett proceeds of any sale so made of goods so detained shall be written off upon the bond in discharge thereof to the amount received, and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid to the owner of the goods: Provided that application for the same be made within one year from the sale, or that sufficient cause be shown for not making the application within such period. No transfer or assignment of the goods shall prevent the Customs-collector from proceeding against such goods in the manner above provided, for any amount due thereon.

Noting removal of goods.

**120.** When any warehoused goods are taken out of any warehouse, the Customs-collector shall cause the fact to be noted on the back of the bond.

Every note so made shall specify the quantity and description of such goods, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the shipping-bill under which they have been taken away if removed for exportation by sea, or of the bill-of-entry if removed for house-consumption, and the amount of duty paid (if any).

Register of bonds.

**121.** A register shall be kept of all bonds entered into for Customs-duties on warehoused goods, and entry shall be made in such register of all particulars required by Section 120 to be specified.

Cancellation and return of bonds.

When such register shows that the whole of the goods covered by any bond have been cleared for home-consumption or shipment, or otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the Customs-

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collector shall cancel such bond as discharged in full, and shall on demand deliver it, so cancelled, to the person who has executed or who is entitled to receive it.

*Miscellaneous.*

Power to remit duties on warehoused goods lost or destroyed.

122. If any goods in respect of which a bond has been executed under Section 92, and which have not been cleared for home consumption, are lost or destroyed by unavoidable accident or delay, the Chief Customs-Authority may in its discretion remit the duties due thereon :

Provided that, if any such goods be so lost or destroyed in a private warehouse, notice thereof be given to the Customs-collector within forty-eight hours after the discovery of such loss or destruction.

Warehouse-keeper answerable for weight or gauge.

123. The warehouse-keeper in respect of goods lodged in a public warehouse, and the licensee in respect of goods lodged in a private warehouse, shall be responsible for their due reception therein and delivery therefrom, and for their safe custody while deposited therein according to the quantity, weight, or gauge reported by the Customs-house officer who has assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in Sections 116 and 117 :

Compensation for loss or injury.

Provided that no owner of goods shall be entitled to claim from the Customs-collector, or from any keeper of a public warehouse, compensation for any loss or damage occurring to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it be proved that such loss or damage was occasioned by the wilful act or neglect of the warehouse-keeper or of an officer of Customs.

Public warehouse to be locked.

124. Every public warehouse shall be under the lock and key of a warehouse-keeper appointed by the Chief Officer of Customs.

Power to decide where goods may be deposited in public warehouse, and on what terms.

125. The Chief Customs-Authority, or such officer of Customs as such Authority from time to time appoints in this behalf, may from time to time determine in what division of any public warehouse, and in what manner, and on what terms, any goods may be deposited, and what sort of goods may be deposited in any such warehouse.

Expenses of carriage, packing, &c, to be borne by owners.

126. The expenses of carriage, packing, and stowage of goods on their reception into or removal from a public warehouse shall, if paid by the Customs-collector or by the warehouse-keeper, be chargeable on the goods, and be defrayed by, and recoverable from, the owner, in the manner provided in Section 119.

Bengal Bonded Warehouse Association.

127. All the provisions of this Act, relating to private warehouses, shall be applicable to the warehouses wherein the Bengal Bonded Warehouse Association receives bonded goods.

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## CHAPTER XII.

### TRANSHIPMENT.

Power to permit transhipment without payment of duty.

**128.** In the Ports of Calcutta, Madras, Bombay, Karwar, Karachi, Aden, Rangoon, Maulmain, Akyab, Chittagong, and such other ports as the Governor-General in Council may from time to time, by notification in the *Gazette of India*, direct in this behalf, the Customs-collector may on application by the owner of any goods imported into such port, and specially and distinctly manifested at the time of importation as for transhipment to some other Customs or foreign port, grant leave to tranship the same without payment of the duty (if any) leviable at the port of transhipment, and without any security or bond for the due arrival and entry of the goods at the port of destination.

In any Customs-port other than a port in which the preceding clause may for the time being be in force, the Customs-collector may on application by the owner of any goods so imported and manifested, grant leave for transhipment without payment of the duty (if any) leviable at such port; provided that where the goods so transhipped are dutiable, and are to be removed to some other Customs-port, the applicant shall enter into a bond, with such security as may be required of him, in a sum equal at least to the duty chargeable on such goods, for the due arrival and entry thereof at the port of destination within such time as such Customs-collector directs.

Superintendence of transhipment.

**129.** An officer of Customs shall, in every case, be deputed free of charge to superintend the removal of transhipped goods from vessel to vessel.

Subsidiary rules as to transhipment.

**130.** The powers conferred on the Customs-collector by Section 128 shall be exercised, and the transhipment shall be performed, subject to such rules as may from time to time be made by the Local Government.

No rules made under this section shall come into force until after the expiry of such reasonable time from the date of the publication of the same as the Local Government may in each case appoint in this behalf.

Entry and warehousing, on arrival, of goods transhipped under Section 128, clause 2.

**131.** All goods transhipped under the second clause of Section 128 for removal to a Customs-port shall, on their arrival at such port, be entered in like manner as goods are entered on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable, which regulate the entry of such last-mentioned goods.

Transhipment of provisions and stores from one vessel to another of same owner without payment of duty.

**132.** If two or more vessels belonging wholly or in part to the same owner be at any Customs-port at the same time, any provisions and stores in use or ordinarily shipped for use on board may, at the discretion of the Customs-collector, be transhipped from one such vessel to any other such vessel without payment of import-duty.

Levy of transhipment-fee.

**133.** A transhipment-fee on any goods or class of goods transhipped under this Act, may be levied at such rates on each bale or package, or according to weight, measurement, quantity, or number, and under such rules, as the Local Government with the previous sanction of the Governor-General in Council, may from time to time, by notification in the local official Gazette prescribe for each port.

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Power to prohibit transhipment.

**134.** The Governor-General in Council may from time to time, by notification in the *Gazette of India*, prohibit, at any specified port, or at all ports, the transhipment of any specified class of goods, generally or when destined for any specified ports, or prescribe any special mode of transhipping any specified class of goods.

NOTE.—In exercise of the power conferred by Section 134 of the Sea Customs Act, 1878, the Governor-General in Council is pleased to prohibit the transhipment, under the provisions of Chapter XII of the said Act, at the Ports of Bombay and Karachi, for conveyance to any Customs Port, of petroleum which, under Act II. of 1888, is liable to customs duty, unless and until Customs duty has been paid upon such petroleum at either of the said Ports of Bombay or Karachi. (*Government of India No* 2276, *dated the 2nd May* 1888, *Gazette of India of 5th idem, Part I, p.* 208).

No goods to be transhipped except as provided.

**135.** Except as provided in this Act, no goods shall be transhipped at any port or place in British India.

## CHAPTER XIII.

### EXPORTATION OR SHIPMENT, AND RE-LANDING.

No goods to be shipped, &c., till entry outwards of vessel.

**136.** Except with the written permission of the Customs-collector, no goods other than passengers' baggage, or ballast urgently required for a vessel's safety, shall be shipped or water-borne to be shipped in any vessel in a Customs-port, until an order has been obtained under Section 61 for entry outwards of such vessel.

When such order has been obtained, the export cargo of such vessel may be shipped, subject to the provisions next hereinafter contained.

Clearance for shipment.

**137.** Unless the Chief Customs-Authority shall, in the case of any Customs-port or wharf, or of any class of goods, otherwise direct by notification in the local official Gazette, no goods, except passengers' baggage, shall be shipped or water-borne to be shipped for exportation, until—

(*a*) the owner has delivered to the Customs-collector, or other proper officer, a shipping-bill of such goods in duplicate, in such form and containing such particulars in addition to those specified in Section 29 as may from time to time be prescribed by the Chief Customs-Authority;

(*b*) such owner has paid the duties (if any) payable on such goods: and

(*c*) such bill has been passed by the Customs-collector.

Bond required in certain cases before exportation.

**138.** Before any warehoused goods, or goods subject to excise-duties, or goods entitled to drawback of Customs-duties on exportation, or goods exportable only under particular rules or restrictions, are permitted to be exported, the owner shall, if required so to do, give security by bond in such sum, not exceeding twice the duty leviable on such goods, as the Customs-collector directs, with one sufficient surety, that such goods shall be duly shipped, exported, and landed at the place for which they are entered outwards, or shall be otherwise accounted for to the satisfaction of such officer.

Additional charge on goods cleared for shipment after port-clearance granted.

**139.** When goods are cleared for shipment on a shipping-bill presented after port-clearance has been granted, the Customs-collector may, if he thinks fit, levy, in addition to any duty to which such goods are ordinarily liable, a charge not exceeding—

(*a*) in the case of goods liable to duties on fixed tariff-valuations, one per cent. on the tariff-value;

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(*b*) in the case of all other goods, one per cent. on the market value.

Nothing in this section shall apply to any shipment of treasure or opium.

Notice of non-shipment or re-landing, and return of duty thereon.

**140.** If any goods mentioned in a shipping-bill or manifest be not shipped, or be shipped and afterwards re-landed, the owner shall, before the expiration of five clear working days after the vessel on which such goods were intended to be shipped, or from which they were re-landed, has left the port, give information of such short-shipment or re-landing to the Customs-collector.

Upon an application being made to the Customs-collector, any duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be refunded to the person on whose behalf such duty was paid:

Provided that no such refund shall be allowed unless information has been given as above required.

Goods re-landed or transhipped from a vessel returning to port, or putting into another port.

**141.** If, after having cleared from any Customs-port, any vessel, without having discharged her cargo, returns to such port, or puts into any other Customs-port, any owner of goods in such vessel, if he desires to land or tranship the same or any portion thereof for re-export, may, with the consent of the Master, apply to the Customs-collector in that behalf. The Customs-collector, if he grant the application, shall thereupon send an officer of Customs to watch the vessel, and to take charge of such goods during such re-landing or transhipment. Such goods shall not be allowed to be transhipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export, unless they are lodged and remain, until the time of re-export, under the custody of an officer of Customs, in a place appointed by the Customs-collector, or are transhipped under such custody. All expenses attending such custody shall be borne by the owner.

Vessel returning to port may enter and land goods under import-rules.

**142.** In either of the cases mentioned in Section 141, the Master of the vessel may enter such vessel inwards, and any owner of goods therein may, with the consent of the Master, land the same under the rules herein contained for the importation of goods. In every such case, any export-duty levied shall be refunded to, and any amount paid in drawback shall be recovered from, such owner.

Re-landing of cargo during repairs.

**143.** The Customs-collector may, on application by the Master of any vessel which is obliged before completing her voyage to put into any Customs-port for repairs, permit him to land the cargo, or any portion thereof, and to place it in the custody of an officer of Customs during such repairs, and to re-ship and export the same free of duty. All expenses attending such custody shall be borne by the Master.

## CHAPTER XIV.

### SPIRIT.

*Exportation of spirit under bond for excise-duty.*

Rules for removal of spirit from distillery without payment of duty for exportation.

**144.** The Chief Customs-Authority may from time to time make rules prescribing the conditions on which spirit manufactured in British India may be removed from any licensed distillery for exportation without payment of excise-duty.

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The person so removing any such spirit shall execute a bond with one or more sureties in the form marked C hereto annexed, or (when such form is inapplicable or insufficient) in such other form as the said Authority from time to time prescribes, conditioned that such duty shall be paid on all such spirit as is

(*a*) not exported within four months from the date of the bond, or

(*b*) exported to a Customs-port, unless either the payment of excise-duty as provided by this chapter in respect thereof at the port of destination, or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port, is within six months from the date of the bond proved to the satisfaction of the proper officer.

The Chief Officer of Customs of the port of exportation may, on sufficient cause shown, extend for a further term not exceeding four months the period allowed for the exportation of any such spirit, or for the production of such proof that duty has been so paid, or the spirit so delivered.

NOTE.—As amended by Act II of 1887, Section 1.

Spirit for export to be taken direct from distillery to Custom-house under pass.

**145.** Spirit intended for exportation under bond for the excise-duty shall, except when provision is made by any enactment for the time being in force for its being intermediately deposited in a licensed warehouse, be taken from the distillery direct to the Custom-house, under passes to be granted for that purpose by the officers of excise.

NOTE.—As amended by Act IX of 1885, Section 5.

Gauging and proving of spirit.

**146.** Spirit brought to the Custom-house for exportation under bond for the excise-duty may, previous to shipment, be gauged and proved by an officer of Customs; and the quantity of spirit for which credit is to be given in the settlement of any bond may be determined in the same manner.

NOTE.—As amended by Act II of 1887, Section 2.

Duty to be recovered on any deficiency in spirit under bond.

**147.** Excise-duty shall be recoverable previously to shipment upon the excess (if any) of the quantity of spirit passed from a distillery over the quantity ascertained by gauge and proof at the Custom-house, less an allowance for ullage and wastage at such rates as are from time to time prescribed by the Local Government and notified in the local official Gazette.

Duty on spirit exported under bond from one Indian port to another.

**148.** Notwithstanding anything in the Indian Tariff Act, 1882, spirit exported under bond for excise duty from any Customs-port to any other Customs-port, shall be charged at the port of importation with excise-duty at the ordinary rate to which spirit of the like kind and strength is liable at such port.

Provided that the Local Government may authorise the import of such spirit without the payment of that duty at the port of importation; when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise-duty thereon is to be paid on the removal of the spirit from a warehouse so appointed.

NOTE.—As amended by Act II of 1887, Section 3.

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Removal for local consumption of spirit intended for exportation.

**149.** Spirit brought to the Custom-house, or to a warehouse licensed under any enactment for the time being in force, for exportation under bond for the excise-duty may, on payment of such duty, be removed for local consumption under passes to be granted for that purpose by the officers of excise. Credit for every such payment shall be given in discharge of the bond to which it relates.

NOTE.—As amended by Act IX of 1885, Section 5.

*Drawback of excise-duty on export of spirit.*

Drawback of excise-duty on spirit exported.

**150.** A drawback of excise-duty paid on spirit manufactured in British India and exported to any foreign port under the provisions of Section 138, shall be allowed by the Customs-collector at the port of exportation:

Provided that the exportation be made within one year from the date of payment of such excise-duty, and that the spirit, when brought to the Custom-house, be accompanied by a pass in which such payment is certified.

Such drawback shall be regulated by the strength and quantity of such spirit as ascertained by gauge and proof by an officer of Customs.

*Miscellaneous.*

Differential duty to be levied in certain cases.

**151.** Notwithstanding anything in the Indian Tariff Act, 1882, if spirit manufactured in British India upon which excise-duty has been paid is exported from one Customs-port to another, and the rate of local excise-duty at the port of importation is higher than that already paid upon such spirit, a differential duty shall be charged thereupon, at such rate as the Local Government at such port may by notification in the local official Gazette from time to time prescribe.

Provided that the Local Government may authorise the import of such spirit without the payment of the differential duty at the port of importation, when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed.

NOTE.—As amended by Act II of 1887, Section 4.

Rum-shrub, &c., how charged with duty.

Provisions respecting spirit applied to such liquors.

**152.** Rum-shrub, cordial and other such liquor prepared in a licensed distillery under the supervision of the surveyor or officer in charge of the distillery, shall be charged with excise-duty under this Act according to the quantity of spirit used in its preparation as ascertained by such surveyor or officer. The provisions of this Act respecting spirit, except such as relate to gauge and proof, shall apply to such liquor.

Conditions of drawback and remission of duty on spirit.

**153.** No drawback shall be allowed for any spirit on which duty has been paid, nor shall the duty due on any spirit under bond be remitted, unless the spirit is shipped from the Custom-house, and in a vessel whereon an officer of Customs has been appointed to superintend the receipt of export-cargo.

Re-land of spirit shipped.

**154.** No spirit shipped for exportation shall be re-landed without a special pass from an officer of excise, in addition to any permission of an officer of Customs which may be required by the law for the time being in force.

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Power to make rules for ascertaining that imported spirit has been rendered unfit for human consumption.

155. When by any law for the time being in force a special duty is imposed on spirit rendered unfit for human consumption, the Local Government may from time to time make rules for ascertaining and determining what spirit imported into British India shall be deemed to have been effectually and permanently so rendered unfit, and for causing such spirit to be so rendered, if necessary, by their own officers, and at the expense of the person importing the same, before the Customs-duties leviable thereon are levied. In the absence of any such rules, or if any dispute arises as to their applicability, the Chief Customs-officer shall decide what spirit is subject only to the said special duty, and such decision shall be final.

Decision where no rules, or their applicability disputed.

## CHAPTER XV.

### COASTING-TRADE.

Chapters VII, IX, X, and part of XIII inapplicable to coasting-trade.

156. Except as hereinafter provided, nothing in Chapters VII, IX, X, and Sections 136, 139, and 141 to 143 inclusive of this Act shall apply to coasting vessels or to goods imported or exported in such vessels.

Power to regulate coasting-trade.

157. The Local Government may, from time to time, make rules consistent with the provisions of this chapter,

(*a*) extending any provisions of the chapters and sections mentioned in Section 156, with or without modification, to any coasting-vessels or to any goods imported or exported in such vessels ;

(*b*) exempting any such vessels or goods from any of the other provisions of this Act except those contained in this chapter ;

(*c*) prescribing the conditions on which goods, or any specified class of goods, may be (1) carried in a coasting-vessel, whether shipped at a foreign port, or at a Customs-port, or at a place declared under Section 12 to be a port ; (2) shipped in a coasting vessel before all dutiable goods and goods brought in such vessel from a foreign port have been unladen ;

(*d*) prohibiting the conveyance of any specified class of goods generally, or to, or between specified ports in a coasting-vessel.

Coasting-vessels to deliver manifest and obtain port-clearance before leaving port of lading.

158. Before any coasting-vessel departs from the port of lading, or, when there are more ports of lading than one, the first port of lading, the Master shall fill in, sign, and deliver to the Customs-collector a manifest in duplicate containing a true specification of all goods to be carried in such vessel, in such form, and accompanied by such shipping-bills or other documents, as may from time to time be prescribed by the Chief Customs-Authority. If the Customs-collector sees no objection to the departure of the vessel, he shall retain the duplicate and return the original manifest dated and signed by him together with its accompaniments ; and such manifest shall be the port-clearance of the vessel, unless, under the general orders of the Chief Customs-Authority, a separate port-clearance be prescribed.

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Delivery of manifest, &c., on arrival.

**159.** Within twenty-four hours after the arrival of any coasting-vessel at any Customs-port, whether intermediate or final, and before any goods are there discharged, the manifest, together with the other documents referred to in Section 158, shall be delivered to the Customs-collector, who shall note on the manifest the date of delivery.

If the vessel has touched at any foreign port between such port of arrival and her last preceding Customs-port of departure, the Master shall append to the manifest a declaration to that effect, and shall also indicate on the manifest the portions (if any) of the cargo therein described which have been discharged, and subjoin thereto a true specification of all goods shipped at such port.

If the Customs-port of arrival be an intermediate port, and a portion only of the cargo is to be discharged thereat, the Master shall likewise so deliver an extract from the manifest signed by him, relating to such portion, and the Customs-collector shall, after verifying such extract, return to him the original manifest and all documents accompanying it except those relating to such portion.

If in any case the cargo actually on board any coasting-vessel on her arrival at any Customs-port does not, owing to short-shipment, re-landing, or other cause, correspond with the specification thereof in the manifest returned to the Master under the second clause of Section 158, such Master shall, before delivery of such manifest under this section, note thereon the particulars of the difference.

The Customs-collector, when satisfied with the manifest and other documents, shall grant an order to break bulk.

Departure from intermediate port.

**160.** Before any coasting-vessel departs from any Customs-port at which she has touched during her voyage, the Master shall re-deliver the original manifest to the Customs-collector after indicating thereon the portions (if any) of the cargo therein described which have been discharged, and subjoining thereto a true specification of all goods shipped at such port. He shall also deliver a duplicate, signed by him, of the specification so subjoined.

If the Customs-collector sees no objection to the departure of the vessel, he shall proceed as prescribed in the second clause of Section 158.

Power to require bond before port clearance is granted.

**161.** The Customs-collector may, for sufficient reason, refuse port-clearance to any coasting-vessel declared to be bound to, or about to touch at, any Customs-port, unless the owner or Master gives a bond with such security as the Customs-collector deems sufficient for the production to the Customs-collector of a certificate from the proper officer of the port to which such vessel is said to be bound, of her arrival at such port within a reasonable time to be prescribed in each case by the Customs-collector.

Discharge of cargo.

**162.** When permission has been granted by the Customs-collector for the discharge of cargo from any coasting-vessel—

(*a*) if the vessel has not touched at any intermediate foreign port in the course of her voyage, and has not on board any dutiable goods, the cargo may be forthwith landed and removed by the owner, without entry thereof at the Custom-house and clearance for home-consumption, but subject to such general check and control as the Chief Customs-Authority may from time to time by rules prescribe;

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(*b*) if the vessel has so touched at any such port, or has on board any such goods, such vessel shall be subject to all the provisions of Chapter VII of this Act relating to vessels arriving and such goods, and until such goods have been duly discharged all other goods on board shall be subject to the provisions of Chapter IX of this Act relating to goods imported.

Goods on coasting vessel, if excisable, not to be unladen without permission.

**163.** If any of the goods on board of any coasting vessel be subject to any excise duty, they shall not be unladen without the permission of the proper officer of excise.

Grant and revocation of general pass.

**164.** Notwithstanding anything hereinbefore contained, the Chief Customs-Authority may authorize the Customs-collector to grant a general pass, on any conditions which such Authority thinks expedient, for the lading and clearance, and for the entry and unlading, of any coasting steam-vessel at any ports of despatch or destination, or at any intermediate ports at which she touches for the purpose of receiving goods or passengers. Such pass shall be valid throughout British India, or for such ports only as may be specified therein.

Any such general pass may be revoked by order of the Chief Customs Authority by whom the grant thereof was authorized, by notice in writing under the hand of such Authority, delivered to the Master or to the owner of such steam-vessel, or to any of the crew on board.

Rules respecting cargo-books to be kept by Masters of coasting-vessels.

**165.** The Chief Customs-Authority may direct that the Master of any coasting-vessel which is square-rigged or propelled by steam shall keep, or cause to be kept, a cargo-book, stating the name of the Master, the vessel, the port to which she belongs, and the port to which on each voyage she is bound.

At every port of lading such Master shall enter, or cause to be entered, in such book the name of such port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him.

At every port of discharge of any such goods such Master shall enter, or cause to be entered, in such book the respective days on which such goods or any of them are delivered out of such vessel.

The respective times of departure from every port of lading, and of arrival at every port of discharge, shall in like manner be duly entered.

Every such Master shall, on demand, produce his cargo-book for the inspection of any officer of Customs, and such officer shall be at liberty to make any note or remark therein.

The Chief Customs-Authority may, in the case of any vessel the Master whereof has been directed to keep a cargo-book under this section, dispense with the manifest required under Sections 158, 159 and 160.

Power to board and examine coasting-vessels.

**166.** Any duly empowered officer of Customs may go on board of any coasting-vessel in any port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board, and all goods then lading or unlading, and may demand the production of any document, which ought to be on board of any such vessel.

The Customs-collector may further require that any such document belonging to any coasting vessel then in port shall be brought to him for inspection.

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## CHAPTER XVI.

### OFFENCES AND PENALTIES.

Punishment for offences.

**167.** The offences mentioned in the first column of the following schedule shall be punishable to the extent mentioned in the third column of the same with reference to such offences respectively :

| Offences. | Section of this Act to which offence has reference. | Penalties. |
|---|---|---|
| 1.—Contravening any rule made under this Act. | General. | Penalty not exceeding five hundred rupees. |
| 2.—If any goods be landed or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek or arm of the sea, for the purpose of being landed or shipped, at any port or place which, at the date of such landing, shipment, attempt, or bringing, is not a port for the landing and shipment of goods, | 11 | Such goods shall be liable to confiscation. |
| 3.—If any person ship or land goods, or aid in the shipment or landing of goods, or knowingly keep or conceal, or knowingly permit or procure to be kept or concealed, any goods shipped or landed, contrary to the provisions of this Act ; or | General | Such person shall be liable to a penalty not exceeding one thousand rupees. |
| if any person be found to have been on board of any vessel liable to confiscation on account of the commission of an offence under No. 2 of this section, while such vessel is within any bay, river, creek or arm of the sea which is not a port for the landing or shipment of goods, | 11 | |
| 4.—If any vessel which has been within the limits of any port in British India with cargo on board, be afterwards found in any port, bay, river, creek or arm of the sea in British India, light or in ballast, and if the Master be unable to give a due account of the Customs-port where such vessel lawfully discharged her cargo, | 11 | Such vessel shall be liable to confiscation. |
| 5.—If any goods are put, without the authority of the proper officer of Customs, on board of any tug-steamer or pilot-vessel from any sea-going vessel inward-bound ; or | 11 | Such goods shall be liable to confiscation, and the Master of every such tug-steamer or pilot-vessel shall be liable to a penalty not exceeding one thousand rupees. |
| if any goods are put, without such authority, out of any tug-steamer or pilot-vessel for the purpose of being put on board of any such vessel outward-bound ; or | | |
| if any goods on which drawback has been granted are put, without such authority, on board of any tug-steamer or pilot-vessel for the purpose of being re-landed, | | |
| 6.—If any vessel arriving at, or departing from, any Customs-port fails, when so required under Section 17, to bring-to at any such station as has been appointed by the Chief Customs-Authority for the boarding or landing of an officer of Customs, | 17 | The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees. |

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OFFENCES AND PENALTIES—*contd.*

| Offences. | Section of this Act to which offence has reference. | Penalties. |
|---|---|---|
| 7.—If any vessel arriving at any Customs-port, after having come to its proper place of mooring or unlading, removes from such place, except with the authority of the Conservator, obtained in accordance with the provisions of the Indian Ports Act, 1875, or other lawful authority, to some other place of mooring or unlading, or | ... | The Master of such vessel shall be liable to a penalty not exceeding five hundred rupees, and the vessel, if not entered, shall not be allowed to enter until the penalty is paid. |
| if any vessel not brought into port by a Pilot be not anchored or moored in accordance with any direction of the Chief Customs-Authority under Section 17, | 17 | |
| 8.—If any goods, the importation or exportation of which is for the time being prohibited or restricted by or under Chapter IV of this Act, be imported into or exported from British India contrary to such prohibition or restriction; or<br>if any attempt be made so to import or export any such goods; or<br>if any such goods be found in any package produced to any officer of Customs as containing no such goods; or<br>if any such goods, or any dutiable goods be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any port in British India; or<br>if any goods, the exportation of which is prohibited or restricted as aforesaid, be brought to any wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction, | 18 & 19 | Such goods shall be liable to confiscation; and<br>any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand rupees. |
| 9.—If upon an application to pass any goods through the Custom-house, any person not being the owner of such goods, and not having proper and sufficient authority from the owner, subscribes or attests any document relating to any goods on behalf of such owner, | General | Such person shall be liable to a penalty not exceeding one thousand rupees. |
| 10.—If any goods, on the entry of which for re-export drawback has been paid, are not duly exported, or are unshipped or re-landed at any Customs-port (not having been duly re-landed or discharged under the provisions of this Act), | 42 & 43 | Such goods together with any vessel used in so unshipping or re-landing them, shall be liable to confiscation;<br>and the Master of the vessel from which such goods are so unshipped or re-landed, and any person by whom or by whose orders or means such goods are so unshipped or re-landed, or who aids or is concerned in such unshipping or re-landing, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand rupees. |

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OFFENCES AND PENALTIES—*contd.*

| Offences. | Section of this Act to which offence has reference | Penalties. |
|---|---|---|
| 11.—If any wine, spirit, provisions, or stores be not laden on board of the vessel on board of which they should, under the provisions of Section 45, 46, 47, or 48 be laden, or be unladen from such vessel without the permission of the proper officer of Customs, | 44 to 48 | Such wine, spirits, provisions, or stores shall be liable to confiscation. |
| 12.—If any goods be entered for drawback, which are of less value than the amount of the drawback claimed, | 50 | Such goods shall be liable to confiscation. |
| 13.—If, in any river or port wherein a place has been fixed under Section 53 by the Local Government, any vessel arriving passes beyond such place, before delivery of a manifest to the pilot, officer of Customs, or other person duly authorized to receive the same, | 53 | The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees. |
| 14.—If the Master of any vessel arriving, which remains outside or below any place so fixed, wilfully omits, for the space of twenty-four hours after anchoring, to deliver a manifest as required by this Act, | 53 | Such Master shall be liable to a penalty not exceeding one thousand rupees. |
| 15.—If, after any vessel arriving has entered any Customs-port in which a place has not been fixed under Section 53, the Master of such vessel wilfully omits, for the space of twenty-four hours after anchoring, to deliver a manifest as required by this Act, | 54 | Ditto ditto. |
| 16.—If any manifest delivered under Section 53, 54, 60, 63 or 66 is not signed by the person delivering the same, and is not in the form or does not contain the particulars required by Section 55 or 63, as the case may be, in so far as such particulars are applicable to the ship, cargo and voyage; or | 55 & 63 | The person delivering such manifest shall be liable to a penalty not exceeding one thousand rupees. |
| if any manifest so delivered does not contain a specification true to the best of such person's knowledge of all goods imported or to be exported in such vessel, | " | |
| 17.—If any goods entered in the import manifest of a vessel are not found on board of the vessel; or if the quantity so found is short, and if such deficiency is not accounted for to the satisfaction of the officer in charge of the Custom-house, | 55 & 64 | The Master of such vessel shall be liable to a penalty not exceeding twice the amount of duty chargeable on the missing or deficient goods, if they be dutiable and the duty leviable thereon can be ascertained, or otherwise to a penalty not exceeding five hundred rupees for every missing or deficient package or separate article. |
| 18.—If any person required by this Act to receive a manifest from any Master of a vessel, refuses so to do, or fails to countersign the same or to enter thereon the particulars referred to in Section 56, | 53, 54 & 56 | Such person shall be liable to a penalty not exceeding five hundred rupees. |
| 19.—If bulk be broken in any vessel previous to the grant by the Customs-collector of an order for entry inwards or a special pass permitting bulk to be broken, | 57 & 59 | The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees. |

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OFFENCES AND PENALTIES—*contd.*

| Offences. | Section of this Act to which offence has reference. | Penalties. |
|---|---|---|
| 20.—If any bill of lading or copy required under Section 58 is false and the Master is unable to satisfy the Customs-collector that he was not aware of the fact; or if any such bill or copy has been altered with fraudulent intent; or<br>if the goods mentioned in any such bill or copy have not been *boná fide* shipped as shown therein; or<br>if any such bill of lading, or any bill of lading of which a copy is delivered, has not been made previously to the departure of the vessel from the place where the goods referred to in such bill of lading were shipped; or<br>if any part of the cargo has been staved, destroyed or thrown overboard; or if any package has been opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Custom-collector, | 58 | The Master of the vessel shall be liable to a penalty not exceeding one thousand rupees. |
| 21.—If any Master of a vessel attempts to depart without a port-clearance, | 62 | Such Master shall be liable to a penalty not exceeding five hundred rupees. |
| 22.—If any vessel actually departs without a port-clearance, | 62 | The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees. |
| 23.—If any pilot takes charge of any vessel proceeding to sea, notwithstanding that the Master of such vessel does not produce a port-clearance, | 62 | Such pilot, on conviction before a Magistrate, shall be liable to fine not exceeding one thousand rupees. |
| 24.—If any Master of a vessel refuses to receive on board an officer of Customs deputed under Section 57, | 68 | Such Master shall be liable to a penalty not exceeding five hundred rupees for each day during which such officer is not received on board; and the vessel if not entered shall not be allowed to enter until such penalty is paid. |
| 25—If any Master of a vessel refuses to receive on board one servant of such officer or to provide such officer and servant with suitable shelter and accommodation, and with a due allowance of fresh water, and with the means of cooking on board, | 68 | Such Master shall, in each such case, be liable to a penalty not exceeding five hundred rupees. |
| 26.—If any Master of a vessel refuses to allow such vessel, or any box, place, or closed receptacle in such vessel, to be searched when so required by an officer of Customs bearing a written order to search; or<br>if an officer of Customs places any lock, mark or seal upon any goods in a vessel, and such lock, mark, or seal is wilfully opened, altered or broken, before due delivery of such goods; or<br>if any such goods are secretly conveyed away; or<br>if any hatchway or entrance to the hold of a vessel, after having been fastened down by an officer of Customs, is opened without his permission, | 69 | The Master of such vessel shall be liable, upon conviction before a Magistrate, to a fine not exceeding one thousand rupees. |

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OFFENCES AND PENALTIES—*contd.*

| Offences. | Section of this Act to which offence has reference. | Penalties. |
|---|---|---|
| 27.—If the Master of any vessel laid up by the withdrawal of the officer of Customs shall, before application is made by him for an officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, in contravention of Section 70, | 70 | Such Master shall be liable to a penalty not exceeding one thousand rupees, and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and if not protected by a pass, shall be liable to confiscation. |
| 28.—If any Master of a vessel in any case other than that provided for by No. 27 causes or suffers any goods to be discharged, shipped, or water-borne contrary to any of the provisions of Section 70, 72, or 75, | 70, 72 & 75 | Such Master shall be liable to a penalty not exceeding one thousand rupees; and all goods so discharged, shipped, or water-borne shall be liable to confiscation. |
| 29.—If, when a boat-note is required by Section 76, any goods water-borne for the purpose of being landed from any vessel, and warehoused or passed for importation, or of being shipped for exportation, be found without such note; or | 76 | Such goods shall be liable to confiscation: and the person by whose authority the goods are being landed or shipped, and the person in charge of the boat, shall each be liable to a penalty not exceeding twice the amount of duty (if any) leviable on the said goods. |
| if any goods are found on board any boat in excess of such boat-note, whether such goods are intended to be landed from, or to be shipped on board of, any vessel, | | |
| 30.—If any person refuses to receive, or fails to sign, or to note the prescribed particulars upon, any boat-note, as required by Section 76, or if any Master or officer of a vessel receiving the same fails to deliver it when required so to do by any officer of Customs authorized to make such requisition, | 76 | Such person, Master or officer shall be liable to a penalty not exceeding five hundred rupees. |
| 31.—If any goods are, without permission, shipped or water-borne to be shipped or are landed except from or at a wharf or other place duly appointed for the purpose; or | 73 | Such goods shall be liable to confiscation; and the person by whose authority the goods are shipped, landed, water-borne, or transhipped, and the person in charge of the vessel employed in conveying them, shall each be liable to a penalty not exceeding twice the amount of the duty (if any) leviable on such goods. |
| if any goods water-borne for the purpose of being landed or shipped are not landed or shipped without unnecessary delay; or | 77 | |
| if the boat containing such goods be found out of the proper track between the vessel and the wharf or other proper place of landing or shipping, and such deviation be not accounted for to the satisfaction of the Customs-collector; or | | |
| if any goods are transhipped contrary to the provisions of Section 78, | 78 | |
| 32.—If, after the issue of a notification under Section 79 with regard to any port, any goods are found within the limits of such port on board of any boat not duly licensed and registered, | 79 | Such goods, unless they are covered by a special permit from the Customs-collector, shall be liable to confiscation, and the owner or the person in charge of the boat shall be liable to a penalty not exceeding one hundred rupees. |
| 33.—If any Master of a vessel discharges or suffers to be discharged any goods not duly entered in the manifest of such vessel, | 55 & 82 | Such Master shall be liable to a penalty not exceeding one thousand rupees. |
| 34.—If any goods are found concealed in any place, box, or closed receptacle in any ves- | General | Such goods shall be liable to confiscation. |

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OFFENCES AND PENALTIES—*contd.*

| Offences. | Section of this Act to which offence has reference | Penalties. |
|---|---|---|
| sel, and are not duly accounted for to the satisfaction of the officer in charge of the Custom-house, | | |
| 35.—If any goods are found on board in excess of those entered in the manifest, or not corresponding with the specification therein contained, | 55 & 82 | Such goods shall be liable to confiscation, or to be charged with such increased rates of duty as the Chief Officer of Customs directs. |
| 36.—If, after any goods have been landed and before they have been passed through the Custom-house, the owner removes or attempts to remove them, with the intention of defrauding the revenue, | 86 & 87 | Such goods shall be liable to confiscation ; or if the goods cannot be recovered, the owner shall be liable, in addition to full duty, to a penalty not exceeding twice the amount of such duty, if the goods be dutiable and the duty leviable thereon can be ascertained ; or otherwise to a penalty not exceeding one thousand rupees for every missing or deficient package or separate article. |
| 37.—If it be found, when any goods are entered at, or brought to be passed through, a Custom-house, either for importation or exportation, that (*a*) the packages in which they are contained differ widely from the description given in the bill-of-entry or application for passing them ; or (*b*) the contents thereof have been wrongly described in such bill or application as regards the denominations, characters, or conditions according to which such goods are chargeable with duty, or are being imported or exported ; or (*c*) the contents of such packages have been mis-stated in regard to sort, quality, quantity or value : or (*d*) goods not stated in the bill of entry or application have been concealed in, or mixed with, the articles specified therein, or have apparently been packed so as to deceive the officers of Customs, and such circumstance is not accounted for to the satisfaction of the Customs-collector, | 86 & 137 | Such packages, together with the whole of the goods contained therein, shall be liable to confiscation, and every person concerned in any such offence shall be liable to a penalty not exceeding one thousand rupees. |
| 38.—If, when goods are passed by tale or by package, any omission or misdescription thereof tending to injure the revenue be discovered, | 86 & 94 | The person guilty of such omission or misdescription shall be liable to a penalty not exceeding ten times the amount of duty which might have been lost to Government by such omission or mis-description, unless it be proved to the satisfaction of the officer in charge of the Customs-house that the variance was accidental. |

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OFFENCES AND PENALTIES—*contd.*

| Offences. | Section of this Act to which offence has reference. | Penalties. |
|---|---|---|
| 39.—If, without entry duly made, any goods are taken, or passed out of any Custom-house or wharf, | 86 | The person so taking or passing such goods shall, in every such case, be liable to a penalty not exceeding five hundred rupees, and such goods shall be liable to confiscation. |
| 40.—If any prohibited or dutiable goods are found, either before or after landing, concealed in any passenger's baggage, | General. | Such passenger shall be liable to a penalty not exceeding five hundred rupees, and such goods shall be liable to confiscation. |
| 41.—If any goods entered to be warehoused are carried into the warehouse, unless with the authority, or under the care, of the proper officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such officers direct, | 93 | Such goods shall be liable to confiscation, and any person so carrying them shall be liable to a penalty not exceeding one thousand rupees. |
| 42.—If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or are withheld, or removed from any proper place of examination before they have been examined and certified by the proper officer, | 94 | Such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation. |
| 43.—If any warehoused goods be not warehoused in accordance with Sections 94 and 95, | 94 & 95 | Such goods shall be liable to confiscation. |
| 44.—If the licensee of any private warehouse licensed under this Act does not open the same when required so to do by any officer entitled to have access thereto, or, upon demand made by any such officer, refuses access to any such officer, | 97 | Such licensee shall be liable to a penalty not exceeding one thousand rupees, and shall further be liable to have his license forthwith cancelled. |
| 45.—If the keeper of any public warehouse, or the licensee of any private warehouse, neglects to stow the goods warehoused therein, so that easy access may be had to every package and parcel thereof, | Chap. XI. | Such keeper or licensee shall, for every such neglect, be liable to a penalty not exceeding fifty rupees. |
| 46.—If the owner of any warehoused goods, or any person in the employ of such owner, clandestinely opens any warehouse, or, except in presence of the proper officer of Customs, gains access to his goods, | 99 | Such owner or person shall, in every such case, be liable to a penalty not exceeding one thousand rupees. |
| 47.—If any warehoused goods are opened in contravention of the provisions of Section 98; or<br>If any alteration be made in such goods or in the packing thereof, except as provided in Section 100, | 98 & 100 | Such goods shall be liable to confiscation. |
| 48.—If any goods lodged in a private warehouse are found at the time of delivery therefrom to be deficient, and such deficiency is not due solely to ullage or wastage, as allowed under Sections 116 and 117, | 123 | The licensee of such warehouse shall, unless the deficiency be accounted for to the satisfaction of the Customs-collector, be liable to a penalty equal to five times the duty chargeable on the goods so deficient. |

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OFFENCES AND PENALTIES—*contd.*

| Offences. | Section of this Act to which offence has reference. | Penalties. |
|---|---|---|
| 49.—If the keeper of any public warehouse, or the licensee of any private warehouse, fails, on the requisition of any officer of Customs, to produce any goods which have been deposited in such warehouse, and which have not been duly cleared and delivered therefrom, and is unable to account for such failure to the satisfaction of the Customs-collector, | 123 | Such keeper or licensee shall, for every such failure, be liable to pay the duties due on such goods, and also a penalty not exceeding fifty rupees in respect of every package or parcel so missing or deficient. |
| 50.—If any goods, after being duly warehoused, are fraudulently concealed in, or removed from, the warehouse, or abstracted from any packages, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, | Chap. XI. | Such goods shall be liable to confiscation, and any person concerned in any such offence shall be liable to a penalty not exceeding one thousand rupees, |
| 51.—If any goods lodged in a private warehouse are found to exceed the registered quantity, | Ditto | Such excess, unless accounted for to the satisfaction of the officer in charge of the Custom-house, shall be charged with five times the ordinary duty thereon. |
| 52.—If any goods be removed from the warehouse in which they were originally deposited, except in the presence, or with the sanction, of the proper officer, or under the proper authority for their delivery, | Ditto | Such goods shall be liable to confiscation, and any person so removing them shall be liable to a penalty not exceeding one thousand rupees. |
| 53.—If any person illegally takes any goods out of any warehouse without payment of duty, or aids, assists, or is concerned therein, | Ditto | Such person shall be liable to a penalty not exceeding one thousand rupees. |
| 54.—If any person contravenes any rule regarding the process of transhipment made by the Local Government, or<br>any prohibition or order relating to transhipment notified by the Governor-General in Council, or<br>tranships goods not allowed to be transhipped. | 130<br>134 | Such person shall be liable to a penalty not exceeding one thousand rupees; and any goods in respect of which such offence has been committed shall be liable to confiscation. |
| 55.—If any goods be taken on board of any vessel at any Customs-port in contravention of Section 136, | 136 | The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees. |
| 56.—If any goods not notified in a duly passed shipping-bill are taken on board of any vessel, contrary to the provisions of Section 137, | 137 | The Master of such vessel shall be liable to a penalty not exceeding fifty rupees for every package of such goods. |
| 57.—If any goods specified in the manifest of any vessel, or in any shipping-bill, are not duly shipped before the departure of such vessel, or are relanded;<br>and notice of such short shipment or relanding be not given as required by Section 140, | 140 | The owner of such goods shall be liable to a penalty not exceeding one hundred rupees; and such goods shall be liable to confiscation. |
| 58.—If any goods duly shipped on board of any vessel be landed, except under Section 141, 142, or 143, at any place other than that for which they have been cleared, | 141 | The Master of such vessel shall, unless the landing be accounted for to the satisfaction of the Customs-collector, be liable to a penalty not exceeding three times the value of such goods so landed. |

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OFFENCES AND PENALTIES—*contd.*

| Offences. | Section of this Act to which offence has reference. | Penalties. |
|---|---|---|
| 59.—If any goods on account of which drawback has been paid be not found on board of any vessel referred to in Section 142, | 141 | The Master of such vessel shall be liable to a penalty not exceeding the entire value of such goods, unless the fact be accounted for to the satisfaction of the Customs-collector. |
| 60.—If any person, without a special pass from any officer of excise at the place of exportation, relands or attempts to reland any spirits shipped for exportation, | 154 | Such person shall be liable to a penalty not exceeding five hundred rupees. |
| 61.—If any person wilfully contravenes any rule relating to spirits made under Section 155, | 155 | Such person shall be liable to a penalty not exceeding five hundred rupees ; and all such spirit shall be liable to confiscation. |
| 62.—If, in contravention of any rules made under Section 157, any goods are taken into, or put out of, or carried in, any coasting vessel ; or if any such rules be otherwise infringed, | 157 | The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees. |
| 63.—If, contrary to any such rules, any coasting vessel touches at any foreign port, or deviates from her voyage, unless forced by unavoidable circumstances ; or if the Master of any such vessel which has touched at a foreign port fails to declare the same in writing to the Customs-collector at the Customs-port at which such vessel afterwards first arrives, | 159 | The Master of such vessel shall be liable to a penalty not exceeding one thousand rupees ; and if any goods liable to export duty have been landed from, or any goods liable to import duty have been shipped in, such vessel at such foreign port, such Master shall further be liable to a penalty not exceeding three times the duty which would have been leviable on such goods if they had been exported from or imported at a Customs-port to or from a foreign port, as the case may be. |
| 64.—If in the case of any coasting-vessel any of the provisions of Section 158, 159, or 160 are not complied with, | 158, 159 & 160 | The Master of such vessel shall in each such case be liable to a penalty not exceeding five hundred rupees. |
| 65.—If the person executing any bond given under Section 161 fail to produce the certificate mentioned in the same section, or to show sufficient reason for its non-production, | 161 | Such person shall be bound to pay a penalty equal to double the amount of Customs-duties which would have been chargeable on the export-cargo of the vessel had she been declared to be bound to a foreign port. |
| 66.—If the Master of any coasting-vessel violates any of the conditions under which a general pass for such vessel has been granted, | 164 | Such Master shall be liable to a penalty not exceeding one thousand rupees. |
| 67.—If any Master of a coasting-vessel contravenes any of the provisions of Section 165, | 165 | Such Master shall be liable to a penalty not exceeding five hundred rupees. |
| 68.—If, upon examination, any package entered in the cargo-book required by Section 165, as containing dutiable goods, is found not to contain such goods ; or | 165 | Such package, with its contents, shall be liable to confiscation. |

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OFFENCES AND PENALTIES—*contd.*

| Offences. | Section of this Act to which offence has reference. | Penalties. |
|---|---|---|
| if any package is found to contain dutiable goods not entered, or not entered as such in such book. | | |
| 69.—If the Master of any coasting vessel required under Section 165 to keep a cargo book fails correctly to keep, or to cause to be kept, such book, or to produce the same on demand ; or<br>if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered ; or<br>if any goods entered as laden, and not noted as delivered, be not on board. | 165 | Such Master shall be liable to a penalty not exceeding five hundred rupees. |
| 70.—If, contrary to the provisions of this or any other law for the time being in force relating to the Customs, any goods are laden on board of any vessel in any Customs-port and carried coastwise ; or<br>if any goods which have been brought coastwise are so unladen in any such port ; or<br>if any goods are found on board of any coasting vessel without being entered in the manifest or cargo book or both (as the case may be) of such vessel, | Chapter XV | Such goods shall be liable to confiscation, and the Master of such vessel shall be liable to a penalty not exceeding five hundred rupees. |
| 71.—If the Master of any coasting vessel refuses to bring any document to the Customs-collector when so required under Section 166, | 166 | Such Master shall be liable to a penalty not exceeding two hundred rupees. |
| 72.—If any person makes or signs, or uses, any declaration or document used in the transaction of any business relating to the Customs, knowing such declaration or document to be false in any particular ; or counterfeits, falsifies, or fraudulently alters or destroys any such document, or any seal, signature, initials, or other mark, made or impressed by any officer of Customs in the transaction of any business relating to the Customs ; or<br>being required under this Act to produce any document, refuses or neglects to produce such document ; or<br>being required under this Act to answer any question put to him by an officer of Customs, does not truly answer such question, | General | Such person shall on conviction of any such offence before a Magistrate be liable to a fine not exceeding one thousand rupees. |
| 73.—If any person on board of any vessel or boat in any Customs-port, or who has landed from any such vessel or boat, upon being asked by any such officer whether he has dutiable or prohibited goods about his person or in his possession, declares that he has not, and if any such goods are, after such denial, found about his person, or in his possession, | General | Such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods. |
| 74.—If any officer of Customs requires any person to be searched for dutiable or prohibited goods, or to be detained, without having reasonable ground to believe that he has such goods about his person, or has been guilty of any offence relating to the Customs, | 169 | Such officer shall on conviction before a Magistrate, be liable to a fine not exceeding five hundred rupees. |

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OFFENCES AND PENALTIES—*contd.*

| Offences. | Section of this Act to which offence has reference. | Penalties. |
|---|---|---|
| 75.—If any officer of Customs, or other person duly employed for the prevention of smuggling, is guilty of a wilful breach of the provisions of this Act, | General | Such officer or person shall, on conviction before a Magistrate, be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both. |
| 76.—If any officer of Customs, or other person duly employed for the prevention of smuggling, practises, or attempts to practise, any fraud for the purpose of injuring the Customs-revenue, or abets or connives at any such fraud, or any attempt to practise any such fraud, | General | Ditto ditto. |
| 77.—If any Police-officer, whose duty it is under Section 180, to send a written notice or cause goods to be conveyed to a Custom-house, neglects so to do, | 180 | Such officer shall, on conviction before a Magistrate, be liable to a penalty not exceeding one hundred rupees. |
| 78.—If any person intentionally obstructs any officer of Customs or other person duly employed for the prevention of smuggling, in the exercise of any powers given under this Act to such officer or person, | General | Such person shall, on conviction before a Magistrate, be liable to inprisonment for any term not exceeding six months, or to a fine not exceeding one thousand rupees, or to both. |
| 79.—If any officer of Customs, except in the discharge in good faith of his duty as such officer, discloses any particulars learned by him in his official capacity in respect of any goods, or shows any samples delivered to him in such capacity, or if any officer of Customs except as permitted by this Act parts with the possession of any samples delivered to him in his official capacity, | 15 | He shall be liable to a penalty not exceeding one thousand rupees. |
| 80.—If any person, without the approval of the Customs-collector under Section 202, acts as an agent for the transaction of business as therein mentioned, | 202 | Such person shall be liable to a penalty not exceeding five hundred rupees. |

Nothing in the second column of the above schedule shall be deemed to have the force of law.

Packages and contents included in confiscation of goods.

**168.** The confiscation of any goods under this Act includes any package in which they are found, and all the other contents thereof.

Also conveyances and animals used in removal.

Every vessel, cart, or other means of conveyance, and every horse or other animal used in the removal of any goods liable to confiscation under this Act, shall in like manner be liable to confiscation.

Tackle, &c., included in confiscation of vessels.

The confiscation of any vessel under this Act includes her tackle, apparel, and furniture.

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## CHAPTER XVII.

### PROCEDURE RELATING TO OFFENCES, APPEALS, &c.

Power to search on reasonable suspicion.

**169.** Any officer of Customs duly employed in the prevention of smuggling may search any person on board of any vessel in any port in British India, or any person who has landed from any vessel;

Provided that such officer has reason to believe that such person has dutiable or prohibited goods secreted about his person.

Persons may, before search, require to be taken before Magistrate or Customs-collector.

**170.** When any officer of Customs is about to search any person under the provisions of Section 169, such person may require the said officer to take him, previous to search, before the nearest Magistrate or Customs-collector.

If such requisition be made, the officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or Customs-collector.

The Magistrate or Customs-collector before whom any person is so brought shall, if he see no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made.

A female shall not be searched by any but a female.

Power to stop vessels, carts, &c., and search for goods on reasonable suspicion.

**171.** Any duly empowered officer of Customs, or other person duly employed for the prevention of smuggling, may stop and search for smuggled goods any vessel, cart, or other means of conveyance; provided that he has reason to believe that smuggled goods are contained therein.

Power to issue search-warrants.

**172.** Any Magistrate may, on application by a Customs-collector, stating his belief that dutiable or prohibited goods are secreted in any place within the local limits of the jurisdiction of such Magistrate, issue a warrant to search for such goods.

Such warrant shall be executed in the same way, and shall have the same effect, as a search-warrant issued under the law relating to Criminal Procedure.

Persons reasonably suspected may be arrested.

**173.** Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this Act, may be arrested in any place, either upon land or water, by any officer of Customs or other person duly employed for the prevention of smuggling.

Persons arrested to be taken to nearest Magistrate or Customs-collector.

**174.** Every person arrested on the ground that he has been guilty of an offence under this Act, shall forthwith be taken before the nearest Magistrate or Customs-collector.

Persons taken before Magistrate may be detained or admitted to bail.

**175.** When any such person is taken before a Magistrate, such Magistrate may, if he thinks fit, either commit him to gaol or order him to be kept in the custody of the Police for such time as is necessary to enable such Magistrate to communicate with the proper officers of Customs:

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Provided that any person so arrested, committed, or kept shall be released on giving security to the satisfaction of the Magistrate to appear at such time and place as such Magistrate appoints in this behalf.

Person escaping may be afterwards arrested.

176. If any person liable to be arrested under this Act is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape, he may at any time afterwards be arrested and taken before a Magistrate, to be dealt with as if he had been arrested at the time of committing such offence.

Persons in Her Majesty's Navy, when arrested, to be secured on board until warrant procured.

177. When any person employed on the crew of any of the ships of Her Majesty's Navy, Indian Marine, or Marine Survey, is arrested under this Act, the arresting officer shall forthwith give notice thereof to the commanding officer of the ship who shall thereupon place such person in security on board of such ship, until the arresting officer has obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law.

The Magistrate shall grant such warrant upon complaint made to him by the arresting officer, stating the offence for which the person is detained.

Seizure of things liable to confiscation.

178. Any things liable to confiscation under this Act may be seized in any place, either upon land or water, by any officer of Customs or other person duly employed for the prevention of smuggling.

Things seized how dealt with.

179. All things seized on the ground that they are liable to confiscation under this Act shall, as soon as conveniently may be, be delivered into the care of any Customs-officer authorized to receive the same.

If there be no such officer at hand, all such things shall be carried to and deposited at the Custom-house nearest to the place of seizure.

If there be no Custom-house within a convenient distance, such things shall be deposited at the nearest place appointed by the Chief Customs-Authority for the deposit of things so seized.

Procedure in respect of things seized on suspicion.

180. When any things liable to confiscation under this Act are seized by any police-officer on suspicion that they have been stolen, he may carry them to any police-station or Court at which a complaint connected with the stealing or receiving of such things has been made, or an enquiry connected with such stealing or receiving is in progress, and there detain such things until the dismissal of such complaint or the conclusion of such enquiry or of any trial thence resulting.

In every such case the police-officer seizing the things shall send written notice of their seizure and detention to the nearest Customs-house; and immediately after the dismissal of the complaint or the conclusion of the enquiry or trial, he shall cause such things to be conveyed to, and deposited at, the nearest Customs-house, to be there proceeded against according to law.

When seizure or arrest is made, reason in writing to be given.

181. When anything is so seized, or any person is arrested, under this Act, the officer or other person making such seizure or arrest shall, on demand of the person in charge of the thing so seized, or of the person so arrested, give him a statement in writing of the reason for such seizure or arrest.

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Adjudication of confiscations and penalties.

182. In every case except the cases mentioned in Section 167, Nos. 26, 72, and 74 to 76, both inclusive, in which, under this Act, anything is liable to confiscation or to increased rates of duty; or any person is liable to a penalty, such confiscation, increased rate of duty, or penalty may be adjudged—

(*a*) without limit, by a Deputy Commissioner or Deputy Collector of Customs, or a Customs-collector;

(*b*) up to confiscation of goods not exceeding two hundred and fifty rupees in value, and imposition of penalty, or increased duty not exceeding one hundred rupees, by an Assistant Commissioner or Assistant Collector of Customs;

(*c*) up to confiscation of goods not exceeding fifty rupees in value, and imposition of penalty or increased duty not exceeding ten rupees, by such other subordinate officers of Customs as the Local Government may, from time to time, empower in that behalf in virtue of their office:

Provided that the Local Government may, in the case of any officer performing the duties of a Customs-collector, limit his powers to those indicated in clause (*b*) or in clause (*c*) of this section, and may confer on any officer by name, or in virtue of his office, the powers indicated in clauses (*a*), (*b*), or (*c*) of this section.

Option to pay fine in lieu of confiscation.

183. Whenever confiscation is authorized by this Act, the officer adjudging it shall give the owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.

On confiscation of vessel or goods, property to vest in Her Majesty.

184. When anything is confiscated under Section 182, such thing shall thereupon vest in Her Majesty. The officer adjudging confiscation shall take and hold possession of the thing confiscated, and every officer of police, on the requisition of such officer, shall assist him in taking and holding such possession.

Levy of penalty for failure to bring-to.

185. If any vessel actually departs without a port-clearance, or after failing to bring-to when required at any station appointed under Section 17, the penalty to which the Master of such vessel is liable may be adjudged by the Chief Customs-officer of any Customs-port to which such vessel proceeds, or in which she is, and in the case of Aden, by such officer as the Governor of Bombay in Council appoints in this behalf.

A certificate of such departure or failure to bring-to when required, purporting to be signed by the Chief Customs-officer of the port from which the vessel is stated to have so departed, shall be *primâ facie* proof of the fact so certified.

Penalty under Act not to interfere with punishment under other law.

186. The award of any confiscation, penalty, or increased rate of duty under this Act by an officer of Customs shall not prevent the infliction of any punishment to which the person affected thereby is liable under any other law.

Offences not specially provided for how tried.

187. All offences against this Act, other than those cognizable under Section 182 by officers of Customs, may be tried summarily by a Magistrate.

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188. Any person deeming himself aggrieved by any decision or order passed by an officer of Customs under this Act may, within three months from the date of such decision or order, appeal therefrom to the Chief Customs-Authority, or, in such cases as the Local Government directs, to any officer of Customs not inferior in rank to a Customs-collector, and empowered in that behalf by name or in virtue of his office by the Local Government.

Appeal from subordinate to Chief Customs-Authority.

Such authority or officer may thereupon make such further enquiry and pass such order as he thinks fit, confirming, altering, or annulling the decision or order appealed against:

Provided that no such order in appeal shall have the effect of subjecting any person to any greater confiscation, penalty, or rate of duty than has been adjudged against him in the original decision or order.

Every order passed in appeal under this section shall, subject to the power of revision conferred by Section 191, be final.

189. When the decision or order appealed against relates to any duty or penalty leviable in respect of any goods, the owner of such goods, if desirous of appealing against such decision or order, shall, pending the appeal, deposit in the hands of the Customs-collector at the port where the dispute arises, the amount demanded by the officer passing such decision or order.

Deposit, pending appeal, of duty demanded.

When delivery of such goods to the owner thereof is withheld merely by reason of such amount not being paid, the Customs-collector shall upon such deposit being made cause such goods to be delivered to such owner.

If upon any such appeal it is decided that the whole or any portion of such amount was not leviable in respect of such goods, the Customs-collector shall return such amount or portion (as the case may be) to the owner of such goods on demand by such owner.

190. If, upon consideration of the circumstances under which any penalty, increased rate of duty, or confiscation has been adjudged under this Act by an officer of Customs, the Chief Customs-Authority is of opinion that such penalty, increased rate, or confiscation ought to be remitted in whole or in part, or commuted, such Authority may remit the same or any portion thereof, or may, with the consent of the owner of any goods ordered to be confiscated, commute the order of confiscation to a penalty not exceeding the value of such goods.

Power to remit penalty or confiscation.

191. The Local Government may, on the application of any person aggrieved by any decision or order passed under this Act by any officer of Customs or Chief Customs-Authority, and from which no appeal lies, reverse or modify such decision or order.

Revision by Local Government.

192. When any fine, penalty, or increased rate of duty is leviable under this Act, the goods in respect of which such fine, penalty, or rate is leviable shall not be removed by the owner until such fine, penalty, or rate is paid.

Goods on which penalty incurred not to be removed till payment.

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If any person has become liable to any such fine, penalty, or rate in respect of any goods, the Customs-collector may detain any other goods belonging to such person passing through the Customs-house until such fine, penalty, or rate is paid.

Other goods of person liable to fine or penalty may be detained.

193. When a penalty or increased rate of duty is adjudged against any person under this Act by any officer of Customs, such officer, if such penalty or increased rate be not paid, may levy the same by sale of any goods of the said person which may be in his charge or in the charge of any other officer of Customs.

Enforcement of payment of penalty.

When an officer of Customs who has adjudged a penalty or increased rate of duty against any person under this Act is unable to realise the unpaid amount thereof from such goods, such officer may notify in writing to any Magistrate within the local limits of whose jurisdiction such person or any goods belonging to him may be, the name and residence of the said person and the amount of penalty or increased rate of duty unrecovered: and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if such penalty or increased rate had been a fine inflicted by himself.

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## CHAPTER XVIII.

### MISCELLANEOUS.

194. Any officer of Customs may open any package, and examine any goods brought by sea to, or shipped or brought for shipment at, any Customs-port.

Power to open packages and examine goods.

195. The Customs-collector may on the entry or clearance of any goods, or at any time while such goods are being passed through the Customs-house, take samples of such goods, for examination or for ascertaining the value thereof on which duties are payable, or for any other necessary purpose.

Power to take samples of goods.

Every such sample shall, if practicable, be, at the option of the owner, either restored to him, or sold and the proceeds accounted for to him.

196. The unshipping, carrying, shipping, and landing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, unpacking, bulking, sorting, lotting, marking, and numbering of goods, where such operations are necessary or permitted; and the removing of goods to, and the placing of them in, the proper place of deposit, shall be performed by or at the expense of the owner of such goods.

Owner to pay expense incidental to compliance with Customs-law.

197. No owner of goods shall be entitled to claim from any officer of Customs compensation for any loss or damage occurring to such goods at any time while they remain or are lawfully detained in any Custom-house, or on any Custom-house wharf, or under charge of any officer of Customs, unless it be proved that such loss or damage was occasioned by the neglect or wilful act of such officer of Customs.

No compensation for loss or injury except on proof of neglect or wilful act.

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Notice of proceedings. Limitation.

198. No proceeding other than a suit shall be commenced against any person for anything purporting to be done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof; or after the expiration of three months from the accrual of such cause.

Wharfage-fees.

199. The Chief Customs-Authority may from time to time fix the period after the expiration of which goods left on any Custom-house wharf, or other authorized landing place or part of the Custom-house premises, shall be subject to payment of fees, and the amount of such fees.

Duplicate of documents may be granted on payment of fee.

200. A duplicate of any certificate, manifest, bill, or other Custom-house document may, on payment of a fee not exceeding ten rupees, be furnished, at the discretion of the Customs-collector, to any person applying for the same, if the Customs-collector is satisfied that no fraud has been committed or is intended by the applicant.

Amendment of documents.

201. Except in the cases provided for by Sections 36, 55, 63, and 94, the Customs-collector may in his discretion, upon payment of one rupee, authorize any document, after it has been entered and recorded in the Custom-house, to be amended.

Custom-house agents.

202. No person authorized to act as an agent for the transaction of any business relating to the entrance or clearance of any vessel, or the import or export of goods or baggage, shall so act in any Custom-house, unless such authorization is approved by the Customs-collector.

Such officer may require any person so authorized to give a bond with sufficient security, in any sum not exceeding five thousand rupees, for his faithful behaviour as regards the Custom-house regulations and officers.

Such officer may, in case of misbehaviour of the person so authorized, suspend or withdraw such approval, but an appeal against every such suspension or withdrawal shall lie to the Chief Customs-Authority, whose decision thereon shall be final.

Every appeal under this section shall be made within one month of the suspension or withdrawal.

Agent to produce authority if required.

203. When any person applies to any officer of Customs for permission to transact any specified business with him on behalf of any other person, such officer may require the applicant to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority may refuse such permission.

The clerk, servant, or agent of any person or mercantile firm may transact business generally at the Custom-house on behalf of such person or firm; Provided that the Customs-collector may refuse to recognize such clerk, servant, or agent unless such person or a member of such firm identifies such clerk, servant or agent to the Customs-collector as empowered to transact such business, and deposits with the Customs-collector an authority in writing duly signed, authorizing such clerk, servant, or agent to transact such business on behalf of such person or firm.

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**204.** All rules made under this Act shall be notified in the official Gazette, and shall thereupon have the force of law. All such rules for the time being in force shall be collected, arranged, and published at intervals not exceeding two years, and shall be sold to the public at a reasonable price.

Rules to be notified.

**205.** Any notification made by any authority under powers conferred by this Act may be cancelled in like manner by the same authority.

Cancellation of notification.

**206.** If in any case relating to the removal of goods from a warehouse without payment of duty, the person offending be an officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the owner of such goods, no duty shall be payable in respect of such goods. For any damage so occasioned by such officer, the Customs-collector shall, with the sanction of the Chief Customs-Authority, make due compensation to such owner.

Remission of duty and compensation to owner in certain cases.

**207.** Nothing in this Act shall affect any law for the time being in force relating to the Commissioners for making improvements in the Port of Calcutta or the Trustees of the Port of Bombay, or any like body hereafter created for any other port.

Saving of Calcutta Port Commissioners' and Bombay Port Trust Acts.

NOTE.—As amended by Act IX of 1885, Section 6.

## SCHEDULE.

PART I.—ACTS OF THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| XXI of 1856 ... | An Act to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal. | Section eight. Sections ten to fifteen, both inclusive, the last sentence of section sixteen, and the form of bond annexed to the Act. |
| VI of 1863 ... | An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India. | The whole. |
| X of 1868 ... | An Act to amend the Consolidated Customs Act. | The whole. |
| XVII of 1869 ... | An Act to shorten the time for landing cargo. | The whole. |
| XIV of 1871 ... | An Act for the further amendment of the Consolidated Customs Act. | The whole. |
| VI of 1873 ... | An Act to amend the law relating to the Transhipment of goods imported by steamer, and for other purposes. | The whole. |
| XVI of 1875 ... | An Act to amend the law relating to Customs Duties, and for other purposes. | Sections five, six, seven and twelve. |

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## PART II.—FORMS.

### A.—FORM OF BOND FOR IMPORT DUTY.

(*See Section* 92).

BOND.

No. 18

We, *A. B.* , now of : and *C. D.*, of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council, for which payment we jointly and severally bind ourselves and our legal representatives.

( *Date* )

(*Signed*)

The above bounden having applied to the officer in charge of the Customs-house at for and obtained permission to lodge in the warehouse for a period of the following goods, that is to say— imported by sea from on board of the ship and entered in the Custom-house Books as No. of the Register of Goods imported by Sea ;

The condition of this Bond is, that :

If the , or their legal representatives, shall observe all the rules prescribed in the Sea Customs Act, 1878, to be observed by owners of goods warehoused, and by persons obtaining permission to warehouse goods under the provisions thereof ;

And if the said or their legal representatives, shall pay to the officer in charge of the Custom-house at the port of all dues, whether Customs-duties, warehouse-dues, rent, or other lawful charges which shall be demandable on the said goods, or on account of penalties incurred in respect to them, within from the date of this Bond, or within such further time as the Chief Customs-Authority of shall allow in that behalf, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said officer in charge of the Custom-house ;

And if, within the term so fixed or enlarged, the said goods, or any portion thereof, having been removed from the said warehouse for home consumption or re-exportation by sea, the full amount of all customs-duties, warehouse-dues, rent, and other lawful charges, penalties, and interest demandable as aforesaid shall have been first paid on the whole of the said goods ;

This obligation shall be void,

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in full force.

( *Date* )

(*Signed*) ( )

### B.—FORM OF BONDED WAREHOUSE WARRANT.

(*See Section* 96).

I do hereby certify that have deposited in the Warehouse of the undermentioned goods , which goods, the engage on demand, after payment of rent and incidental charges and Government dues or customs chargeable thereon, to deliver to the said or their assigns, or to the holder of this warrant to whom it may be transferred by endorsement.

### C.—FORM OF BOND FOR THE REMOVAL OF SPIRIT FROM A LICENSED DISTILLERY.

(*See Sections* 144 *and* 152).

We, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council, for which payment we jointly and severally bind ourselves and our legal representatives ;

, dated this day of 18

(*Signed*) ( )

The above bounden being indebted to Her Majesty's Secretary of State for India in Council in the sum of Government rupees being the amount of duty payable at the rate of rupees per imperial gallon London proof, for gallons of (*or* for gallons of proof spirit used in the preparation of dozens of bottles *or* gallons of cordials and liquors as specified in the annexed schedule) manufactured at which the said have been allowed to remove thence for exportation by sea, ubject to the provisions of The Sea Customs' Act 1878, without having paid such duty.

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The condition of this obligation is, that if the above bounden or their legal representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State in Council duty at the rate of rupees per imperial gallon of proof spirit for all or any portion of the above-mentioned which shall not have been then exported by sea to a foreign port, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given), or passed for local consumption on payment of duty, then this bond shall be void ; otherwise the same shall remain in full force.

Signed in the presence of

Place

Date

*If the bond be for cordials and other liquors under Section 152, add—Schedule.*

| Description of cordials and liquors. | Quantity in bottles or gallons. | Quantity of proof spirit. |
|---|---|---|
| 1 | 2 | 3 |

NOTES.—(*a*). Act XXI of 1887 is to be read with and taken as part of this Act.

(*b*).—Exemptions under S. 23 :—

1. The duty on all still wines imported into British India to be henceforward one rupee per Imperial gallon or six quart bottles.—(*Government of India No.* 116, *dated* 12*th September* 1878).

2. Grey cotton piece-goods which contain no yarn of a higher number than 30 S. exempted.—(*Government of India No.* 59, *dated* 13*th March* 1879).

3. Indigo and lac of all sorts exempted.—(*Government of India No.* 66 *C.*, *dated* 24*th February* 1880)

4. Sweedish round iron of all sizes and Sweedish iron sheets and plates exempted from four-fifths of the duty to which they are liable.—(*Government of India No.* 70 *C.*, *dated* 6*th March* 1880).

5. Salted fish imported into any port in the Bombay presidency or Sindh exempted from all duty to which it is liable under the Indian Tariff Act.—(*Government of India No.* 3659, *dated* 13*th October* 1880).

6. Gum Arabic, Gum Benjamin, Gum Olibanum or frankincense, Mother-o' pearl, and Tortoise-shell exempted.—(*Government of India No.* 3707, *dated* 13*th October* 1880).

7. Materials used in the construction of tramways, exempted.—(*Government of India No.* 822, *dated* 28*th May* 1881).

8. Exemption notified in No. 58, dated 12th March 1878, extended to the class of grey cotton piece-goods known as dhotis and dhoti-bordered piece goods which contain no yarn of higher number than 30 S. except in the border, when such border, whether coloured white or grey, is not more than 4½ inches in width.—(*Government of India No.* 54 *C.*, *dated* 5*th February* 1881).

9. All materials and apparatus used in the construction and maintenance of lines of telegraphic communication exempted.—(*Government of India No.* 2866, *dated* 6*th September* 1881).

10 From duty under the Indian Tariff Act, 1882, on importation into British India from Aden, arms which have already paid duty under the Indian Arms Act, 1878, on importation into Aden. Such exemption to be made only when the Customs authority receives from the importer a duly certified statement from the responsible authority at Aden that the arms on which exemption is claimed have actually paid duty at Aden within three years of their importation into British India. (*Government of India No.* 1503, *dated* 6*th June* 1884, *Gazette of India of* 7*th idem*).

11. The undermentioned arms, or any of them, when they either accompany a Commissioned Officer of a Volunteer Corps or are certified by the Commandant of the Corps to be imported by the officer for the purposes of his equipment:—

(*a*) a sword, and
(*b*) a revolver or a pair of pistols.

(*Government of India No.* 296 *S.*, *dated* 20*th November* 1885, *Gazette of India of* 21*st idem*).

12. The undermentioned arms, or any of them, when they either accompany a Military Officer or are certified by the Commandant of his Corps to be imported by the officer for the purposes of his equipment:—

(*a*) a sword, and
(*b*) a revolver or a pair of pistols.

(*Government of India No.* 30 *S. dated* 26*th January* 1887, *Gazette of India of* 29*th idem*).

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13. Morris' tubes and patent ammunition when imported by Officers Commanding Volunteer Corps for the instruction of their men. (*Government of India No.* 17 *S., dated* 21*st January* 1886, *Gazette of India of* 23*rd idem*).

## ACT No. XI of 1878.

(*Passed on the* 15*th March* 1878).

An Act to consolidate and amend the law relating to Arms, Ammunition and Military Stores.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to arms, ammunition, and military stores; It is hereby enacted as follows:—

### *I.—Preliminary.*

Short title.

1. This Act may be called "The Indian Arms Act, 1878," and it extends to the whole of British India.

Local extent.

Savings.

But nothing herein contained shall apply to—

(*a*) arms, ammunition, or military stores on board any sea-going vessel and forming part of her ordinary armament or equipment, or

(*b*) the manufacture, conversion, sale, import, export, transport, bearing, or possession of arms, ammunition, or military stores by order of the Government, or by a public servant, or a volunteer enrolled under the Indian Volunteers Act, 1869, in the course of his duty as such public servant or volunteer.

Commencement.

2. This Act shall come into force on such day as the Governor-General in Council by notification in the *Gazette of India* appoints.

NOTE.—The Act came into force on the 1st October 1878.—(*Government of India Notification No.* 1169, *dated* 27*th June* 1878).

Repeal of enactments.

3. On and from that day the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule. But all authorities and permissions given, licenses and exemptions granted, orders and appointments made, notifications published, and rules, conditions, and forms prescribed under any enactment hereby repealed, shall be deemed to be respectively given, granted, made, published and prescribed under this Act.

And all such authorities, permissions, licenses and exemptions shall, except as otherwise provided by this Act, continue in force for the periods for which they may have been given or granted, respectively, or, where no such period is expressly fixed, for one year from the date on which this Act comes into force, and shall then cease to have effect.

Interpretation-clause.

4. In this Act unless there be something repugnant in the subject or context—

"Cannon" includes also all howitzers, mortars, wall-pieces, mitrailleuses, and other ordnance and machine-guns, all parts of the same, and all carriages, platforms, and appliances for mounting, transporting, and serving the same:

"Arms" includes fire-arms, bayonets, swords, daggers, spears, spear-heads, and bows and arrows, also cannon and parts of arms, and machinery for manufacturing arms:

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"Ammunition" includes also all articles specially designed for torpedo service and submarine mining, rockets, gun-cotton, dynamite, lithofracteur, and other explosive or fulminating material, gun-flints, gun-wads, percussion-caps, fuses, and friction tubes, all parts of ammunition, and all machinery for manufacturing ammunition, but does not include lead, sulphur, or saltpetre :

"Military stores" in any section of this Act as applied to any part of British India means any Military stores to which the Governor-General in Council may from time to time by notification in the *Gazette of India* specially extend such section in such part, and includes also, all lead, sulphur, saltpetre and other material to which the Governor-General in Council may from time to time so extend such section :

"License" means a license granted under this Act, and "licensed" means holding such license.

NOTE.—Iron droppings or pellets known as "boonda" are to be treated as "ammunition" for the purposes of the Act.—(*Punjab Government Notification No.* 3298, *dated* 8*th November* 1881, *Punjab Gazette of* 17*th idem*).

## *II.—Manufacture, Conversion and Sale.*

Unlicensed manufacture, conversion, and sale prohibited.

**5.** No person shall manufacture, convert, or sell, or keep, offer, or expose for sale, any arms, ammunition, or military stores except under a license and in the manner and to the extent permitted thereby.

Nothing herein contained shall prevent any person from selling any arms or ammunition which he lawfully possesses for his own private use to any person who is not by any enactment for the time being in force prohibited from possessing the same; but every person so selling arms or ammunition to any person other than a person entitled to possess the same by reason of an exemption under section twenty-seven of this Act shall, without necessary delay, give to the Magistrate of the District, or to the officer in charge of the nearest police-station, notice of the sale and of the purchaser's name and address.

NOTE.—The result of the enquiry made in Home Department Circular No. 22—733-741, dated 2nd June 1881, has been to show that considerable diversity of practise exists in the several provinces in regard to the issue of licenses, under the provisions of the Indian Arms Act, 1878, for the repair, as differing from the manufacture or conversion, of arms. In some provinces such licenses have been required, while in others it has not been the practice to require persons who merely repair arms to provide themselves with licenses under the Act. In one province it has been held that such cases fall under Section 5 of the Arms Act, inasmuch as in order to repair arms a person must necessarily have such arms in his possession.

2. It may be observed that when a person who repairs arms is also a maker of arms, it is necessary, under the existing law, that he should provide himself with a license in the latter capacity, so that the present question practically only affects persons in the position of ordinary blacksmiths or others who may have arms in their temporary keeping for purposes of repair. In regard to these classes of persons, the Governor-General in Council is decidedly of opinion that it formed no part of the intention of the Arms Act to require licenses to be taken out, and His Excellency in Council is accordingly pleased to direct that, in future, no license shall be required merely for carrying on the business of repairing arms.—(*Government of India Resolution No.* 69—2039-50, *dated* 15*th December* 1881, *published as Punjab Government Notification No.* 51, *Punjab Gazette of* 12*th January* 1882).

## *III.—Import, Export, and Transport.*

Unlicensed importation and exportation prohibited.

**6.** No person shall bring or take by sea or by land into or out of British India any arms, ammunition or military stores except under a license and in the manner and to the extent permitted by such license.

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Nothing in the first clause of this section extends to arms (other than cannon) or ammunition imported or exported in reasonable quantities for his own private use by any person lawfully entitled to possess such arms or ammunition; but the Collector of Customs or any other officer empowered by the Local Government in this behalf by name or in virtue of his office may at any time detain such arms or ammunition until he receives the orders of the Local Government thereon.

Importation and exportation of arms and ammunition for private use.

*Explanation.*—Arms, ammunition, and military stores taken from one part of British India to another by sea or across intervening territory not being part of British India are taken out of and brought into British India within the meaning of this section.

7. Notwithstanding anything contained in the Sea Customs Act, 1878, no arms, ammunition, or military stores shall be deposited in any warehouse licensed under Section 16 of that Act without the sanction of the Local Government.

Sanction of Local Government required to warehousing of arms, &c.

8. *Repealed by Act XI of* 1882.

9. The Governor-General in Council may from time to time by notification in the *Gazette of India*, direct that duties not exceeding those specified in the second schedule hereto annexed shall be levied upon any articles mentioned in that schedule and brought by land into any part of British India, and may in like manner cancel any such notification.

Power to impose duty on import by land.

10. The Governor-General in Council may from time to time by notification in the *Gazette of India*—

Power to prohibit transport.

(*a*) regulate or prohibit the transport of any description of arms, ammunition, or military stores over the whole of British India or any part thereof, either altogether or except under a license and to the extent and in the manner permitted by such license, and

(*b*) cancel any such notification.

*Explanation.*—Arms, ammunition, or military stores transhipped at a port in British India are transported within the meaning of this section.

Transhipment of arms.

11. The Local Government with the previous sanction of the Governor-General in Council may, at any place along the boundary line between British India and Foreign territory, and at such distance within such line as it deems expedient, establish searching-posts at which all vessels, carts, and baggage animals and all boxes, bales, and packages in transit may be stopped and searched for arms, ammunition, and military stores by any officer empowered by such Government in this behalf by name or in virtue of his office.

Power to establish searching stations.

NOTE.—See Note (*a*) at the end of the Act.

12. When any person is found carrying or conveying any arms, ammunition, or military stores, whether covered by a license or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any person may without warrant apprehend him and take such arms, ammunition or military stores from him

Arrest of persons conveying arms, &c., under suspicious circumstances.

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Procedure where arrest made by person not a Magistrate or a police-officer.

Any person so apprehended, and any arms, ammunition, or military stores so taken by a person not being a Magistrate or police-officer, shall be delivered over as soon as possible to a police-officer.

All persons apprehended by, or delivered to, a police-officer, and all arms and ammunition seized by or delivered to any such officer under this section, shall be taken without unnecessary delay before a Magistrate.

*IV.— Going armed and possessing Arms, &c.*

Prohibition of going armed without license.

13. No person shall go armed with any arms except under a license and to the extent and in the manner permitted thereby.

Any person so going armed without a license or in contravention of its provisions may be disarmed by any Magistrate, police-officer, or other person empowered by the Local Government in this behalf by name or by virtue of his office.

Unlicensed possession of fire-arms, &c.

14. No person shall have in his possession or under his control any cannon or fire-arms, or any ammunition or military stores, except under a license and in the manner and to the extent permitted thereby.

During the three months next following the date on which this Act comes into force, nothing in the former part of this section shall apply to the possession by any person of any fire-arms, ammunition, or military stores in any place to which Section 32, clause 2, of Act No. XXXI of 1860 does not apply at such date.

Any person having within the said period of three months any fire-arms, ammunition, or military stores in his possession in any such place may, and any person having at the expiry of the same period any fire-arms, ammunition, or military stores in his possession in any such place without a license shall, deposit the same with the officer in charge of the nearest police-station.

If the owner of any thing deposited under this section does not, within the year next following the date on which this Act comes into force, obtain a license authorizing him to possess such thing and apply for delivery of the same, such thing shall be forfeited to Her Majesty.

Possession of arms of any description without license prohibited in certain places.

15. In any place to which Section 32, clause 2 of Act No. XXXI of 1860, applies at the time this Act comes into force, or to which the Local Government, with the previous sanction of the Governor-General in Council, may by notification in the local official Gazette specially extend this section, no person shall have in his possession any arms of any description except under a license and in the manner and to the extent permitted thereby.

Arms of which possession has become unlawful to be deposited at police-station.

16. Any person possessing arms, ammunition, or military stores, the possession whereof by him has, in consequence of the cancellation or expiry of a license or by the issue of a notification under section fifteen, become unlawful, shall deposit the same without unnecessary delay with the officer in charge of the nearest police-station.

If the owner of anything deposited under this section does not, within three years from the date on which such thing is so deposited, pro-

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duce a license authorizing him to possess the same, and apply for delivery of the same, such thing shall be forfeited to Her Majesty.

*V.—Licenses.*

Power to make rules as to licenses.

17. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules to determine the officers by whom, the form in which, and the terms and conditions on and subject to which, any license shall be granted, and may by such rules among other matters—

(*a*) fix the period for which such license shall continue in force;

(*b*) fix a fee payable by stamp or otherwise in respect of any such license granted in a place to which Section 32, clause 2, of Act No. XXXI of 1860 applies at the time this Act comes into force, or in respect of any such license other than a license for possession granted in any other place;

(*c*) direct that the holder of any such license other than a license for possession shall keep a record or account in such form as the Local Government may prescribe of anything done under such license, and exhibit such record or account when called upon by an officer of Government to do so;

(*d*) empower any officer of Government to enter and inspect any premises in which arms, ammunition, or military stores are manufactured or kept by any person holding a license of the description referred to in section five or section six;

(*e*) direct that any such person shall exhibit the entire stock of arms, ammunition, and military stores in his possession or under his control to any officer of Government so empowered, and

(*f*) require the person holding any license or acting under any license to produce the same and to produce or account for the arms, ammunition, or military stores covered by the same when called upon by an officer of Government so to do.

NOTES.—(*a*). I am directed to acknowledge the receipt of your letter No. 501, dated the 26th April last, submitting for consideration the question whether refund of impressed stamps should be granted in cases where stamped applications to carry and possess arms, &c., under the Arms Act (XI of 1878) have been refused by a Magistrate.

2. In reply, I am to explain that Section 17, Clause (*b*), of the Arms Act empowers the Governor-General in Council to fix a fee payable in respect of a license "granted," and it seems doubtful whether the fee can properly be retained when such application is refused.

3. In the event, therefore, of an application for a license under the Arms Act, bearing the requisite fee in the shape of impressed stamps, being refused by the Executive authorities, a refund of the stamp fee paid should, in the opinion of the Governor-General in Council, be allowed.—(*Government of India No.* 1084, *dated* 10*th June* 1879, *Punjab Government Notification No.* 3121, *dated* 27*th October* 1879, *Punjab Gazette of* 30*th idem*).

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(*b*).—Under the provisions of Section 17 of the Indian Arms Act, 1878, the Governor-General in Council is pleased to make the following rule, in substitution of the rule contained in Home Department Notification No. 1555, dated the 30th September 1881, regarding the grant of licenses for the possession and transport of gunpowder and fuses required for blasting purposes in connection with agricultural works or works of public utility:—

RULE.

Licenses may be granted to cultivators and other persons, without payment of any fee entitling the holder to possess and transport gunpowder and fuses in reasonable quantities when the same are proved to the satisfaction of the officer granting the license to be required *bonâ fide* for blasting purposes in connection with agricultural works or works of public utility.

Such licenses shall be given in the form appended to Notification No. 1555, dated 30th September 1881.—(*Government of India Notification No.* 1311, *dated* 1*st September* 1882).

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FORM.

License to possess and transport gunpowder fuses for *bonâ fide* blasting purposes.

[*No fee payable.*]

| Name of license-holder, with particulars of residence. | COLUMNS TO BE FILLED IN IN CASES OF TRANSPORT. | | | Quantity of gunpowder and fuses. | District or place within which license is valid. | Term for which license in valid. |
|---|---|---|---|---|---|---|
| | Place of despatch, route, and mode of transit. | Time for which pass is valid. | Destination. | | | |
| | | From the to the 188 . | | | | |

Conditions to be entered on reverse of license :—

The license is subject to the provisions of the Arms Act, and of the rules framed thereunder.

It covers only the persons and the quantity of gunpowder and fuses named therein.

It extends only to the district or place named therein, and is void after the expiration of the term mentioned.

In cases of transport –

The license becomes void if the time occupied in transit exceeds the period specified, or if the consignment breaks bulk before reaching the place of destination, or if the articles are taken by any other route than that specified in the license.

The contents of each package covered by the license must be described in legible letters on the outside of such package.

On arrival at their destination the articles must be available for exhibition to the Magistrate of the district or other principal officer.—(*Government of India Notification No.* 1555, *dated 30th September* 1881).

Under the provisions of Section 17 of the Indian Arms Act, 1878, and in continuation of Home Department Notification No. 1311, dated the 1st instant, the Governor-General in Council is pleased to make the following Rule regarding the grant of licenses for the possession and transport of gunpowder and fuses required for blasting purposes :—

RULE.

Licenses may be granted to contractors and other persons without payment of any fee entitling the holder to possess and transport gunpowder and fuses in reasonable quantities, when the same are proved to the satisfaction of the officer granting the license to be required *bonâ fide* for blasting purposes.

Such licenses shall be given in the form appended to Notification No. 1555, dated 30th September 1881.—(*Government of India Notification No.* 1448, *dated 15th September* 1882).

Under the provisions of Section 17 of the Indian Arms Act, 1878, and in continuation of Home Department Notification No. 1448, dated 15th September 1882, the Governor-General in Council is pleased to make the following rule regarding the grant of licenses for the transport of dynamite, blasting gelatine, and detonating caps required for blasting purposes:—

RULE.

Licenses may be granted to contractors and other persons, without payment of any fee entitling the holder to transport dynamite, blasting gelatine, and detonating caps in reasonable quantities, when the same are proved to the satisfaction of the officer granting the license to be required *bonâ fide* for blasting purposes.

Such licenses shall be given in the form appended to Notification No. 1555, dated 30th September 1881.—(*Notification No.* 100, *dated 24th January* 1883, *Gazette of India of 27th idem, Part I, p.* 35).

For form of license to possess arms or ammunition and go armed in Burma, see No. 927, dated 4th May 1888, *Gazette of India* of 5th idem, Part I, p. 199, and No. 2359, dated 6th September 1888, *Gazette of India* of 8th idem, Part I, p. 407.

(*c*). For rules made under this section see Note (*a*) at end of Act.

(*d*). Under this section licenses to import arms, &c., into Aden are declared subject to certain conditions.—See *Government of India Notification No.* 1016, *dated 26th May* 1879.

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Cancelling and suspension of license.

18. Any license may be cancelled or suspended—

(a) by the officer by whom the same was granted, or by any authority to which he may be subordinate, or by any Magistrate of a District or Commissioner of Police in a presidency-town, within the local limits of whose jurisdiction the holder of such license may be, when, for reasons to be recorded in writing, such officer, authority, Magistrate, or Commissioner deems it necessary for the security of the public peace to cancel or suspend such license; or

(b) by any Judge or Magistrate before whom the holder of such license is convicted of an offence against this Act, or against the rules made under this Act; and

the Local Government may at its discretion by a notification in the local official Gazette cancel or suspend all or any licenses throughout the whole or any portion of the territories under its administration.

*VI.—Penalties.*

For breach of Sections 5 6, 10, 13 to 17.

19. Whoever commits any of the following offencs (namely): —

(a) manufactures, converts, or sells, or keeps, offers, or exposes for sale, any arms, ammunition, or military stores in contravention of the provisions of section five;

(b) fails to give notice as required by the same section;

(c) imports or exports any arms, ammunition, or military stores in contravention of the provisions of section six;

(d) transports any arms, ammunition, or military stores in contravention of a regulation or prohibition issued under section ten;

(e) goes armed in contravention of the provisions of section thirteen;

(f) has in his possession or under his control any arms, ammunition, or military stores in contravention of the provisions of section fourteen or section fifteen;

(g) intentionally makes any false entry in a record or account which by a rule made under section seventeen, clause (c), he is required to keep;

(h) intentionally fails to exhibit anything which by a rule made under section seventeen, clause (e), he is required to exhibit; or

(i) fails to deposit arms, ammunition, or military stores, as required by section fourteen or section sixteen,

shall be punished with imprisonment for a term which may extend to three years or with fine, or with both.

For secret breaches of Sections 5, 6, 10, 14 and 15.

20. Whoever does any act mentioned in clause (a), (c), (d) or (f) of section nineteen, in such manner as to indicate an intention that such act may not be known to any public servant as defined in the Indian Penal Code, or to any person employed upon a Railway, or to the servant of any public carrier,

For concealing arms, &c.

and whoever, on any search being made under section twenty-five, conceals or attempts to conceal any arms, ammunition, or military stores,

shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

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21. Whoever, in violation of a condition subject to which a license has been granted, does, or omits to do, any act, shall, when the doing or omitting to do such act is not punishable under section nineteen or section twenty, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

For breach of license.

22. Whoever knowingly purchases any arms, ammunition, or military stores from any person not licensed or authorized under the proviso to section five to sell the same;

For knowingly purchasing arms, &c., from unlicensed person.

or delivers any arms, ammunition, or military stores into the possession of any person without previously ascertaining that such person is legally authorized to possess the same,

For delivering arms, &c., to person not authorized to possess them.

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

23. Any person violating any rule made under this Act, and for the violation of which no penalty is provided by this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Penalty for breach of rule.

24. When any person is convicted of an offence punishable under this Act committed by him in respect of any arms, ammunition, or military stores, it shall be in the discretion of the convicting Court or Magistrate further to direct that the whole or any portion of such arms, ammunition, or military stores, and any vessel, cart, or baggage animal used to convey the same, and any box, package, or bale in which the same may have been concealed, together with the other contents of such box, package, or bale, shall be confiscated.

Power to confiscate.

*VII.—Miscellaneous.*

25. Whenever any Magistrate has reason to believe that any person residing within the local limits of his jurisdiction has in his possession any arms, ammunition, or military stores for any unlawful purpose,

Search and seizure by Magistrate.

or that such person cannot be left in the possession of any such arms, ammunition, or military stores without danger to the public peace,

such Magistrate, having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person, or in which such Magistrate has reason to believe such arms, ammunition, or military stores are or is to be found, and may seize and detain the same, although covered by a license, in safe custody for such time as he thinks necessary.

The search in such case shall be conducted by, or in the presence of, a Magistrate, or by or in the presence of some officer specially empowered in this behalf by name or in virtue of his office by the Local Government.

26. The Local Government may at any time order or cause to be seized any arms, ammunition, or military stores in the possession of any person, notwithstanding that such person is licensed to possess the same, and may detain the same for such time as it thinks necessary for the public safety.

Seizure and detention by Local Government.

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Power to exempt.

27. The Governor-General in Council may, from time to time, by notification published in the *Gazette of India*,—

(*a*) exempt any person by name or in virtue of his office, or any class of persons, or exclude any description of arms, or ammunition, or withdraw any part of British India, from the operation of any prohibition or direction contained in this Act ; and

(*b*) cancel any such notification and again subject the persons or things, or the part of British India, comprised therein to the operation of such prohibition or direction.

NOTES.—(*a*). Under Section 27 of the Indian Arms Act, 1878, the Governor-General in Council is pleased to exempt from the prohibitions and directions contained in Section 6 of the said Act, such arms, ammunition, and military stores brought into an Indian port, as may be declared under manifest to be consignments, without transhipment, to another port, provided such other port be not situate on the coast of India, between the most westerly point of India and the most southerly point of British Burma, and provided such port be not a foreign port on the eastern sea-board of Africa.

This exemption will become void in the event of any of the articles claiming such exemption being landed at, or transhipped in the port into which they may have been brought.—(*Government of India Notification No.* 1572, *dated* 29*th August* 1879).

(*b*). In continuation of Notification No. 1572, dated the 29th August 1879, it is hereby declared that, under Section 27 of the Indian Arms Act, 1878, the Governor-General in Council is pleased to exempt from the prohibitions and directions contained in Section 6 of the said Act, such arms, ammunition, and military stores brought into an Indian port as may be declared under manifest to be consignments without transhipment to another Indian port, provided that the port to which such arms, ammunition, or military stores are consigned is one of the ports named in Rule 6 of the Rules published under Home Department Notification No. 518, dated 6th March 1879.

This exemption will become void in the event of any of the articles claiming such exemption being landed at, or transhipped in, any port other than that to which the articles are consigned.—(*Government of India Notification No.* 75, *dated* 14*th January* 1880).

(*c*). The notification of the Home, Revenue, and Agricultural Department, No. 1560, dated the 1st October, 1880, is cancelled from this date. Arms, ammunition, and military stores brought into an Indian port, and declared under manifest to be consignments without transhipment to any port on the Sea-board of the Persian Gulf, will, in terms of the Notification of the Home Department, No. 1572, dated 29th August 1879, be exempt until further orders from the prohibitions and directions contained in Section 6 of the Indian Arms Act, 1878.—(*Government of India Notification No.* 361, *dated* 8*th March* 1882).

(*d*). The Governor General in Council is pleased, under Section 27, to exempt from the operation of all prohibitions and directions contained in Sections 13, 14, 15, and 16 of "The Indian Arms Act, 1878," other than those referring to cannon, articles designed for torpedo service, war rockets, and machinery for the manufacture of arms and ammunition, such subordinate officials of the Geologicial Survey of India as may from time to time be authorised by the Superintendent of the Geologicial Survey to possess or carry arms, the number and description of which should be specified in each case.—(*Government of India Notification No.* 1385, *dated* 6*th September* 1880).

(*e*). Kukris are excluded from the prohibitions, &c., contained in the Act as far as regards the districts of Kumaun and Garhwal in the N. W. P.—(*Government of India Notification No.* 1010, *dated* 23*rd May* 1879).

(*f*). Europeans residing in Pondicherry are exempted from import duty on guns for sporting purposes when holding a pass from their own authorities.—(*Government of India Notification No.* 2257, *dated* 15*th December* 1879).

(*g*). The district of Ajmer-Mairwara, withdrawn from the operation of all prohibitions and directions contained in Sections 13 and 14, except in so far as they relate to cannon.—(*Government of India Notification No.* 140 *I. J.*, *dated* 11*th June* 1879).

(*h*). The Mahals of Angal and Banki in Lower Bengal have been similarly exempted.—(*Government of India Notification No.* 2356, *dated* 31*st December* 1879).

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(*i*). The Governor-General in Council is pleased, under the provisions of Section 27 of the Indian Arms Act, 1878, to exclude uniform swords and dirks of recognised military or official patterns from the operation of any prohibition and direction contained in the Act.—(*Government of India Notification No.* 760, *dated* 19*th May* 1882).

(*j*). In continuation of the Notification of this Department, No. 760, dated the 19th ultimo, the Governor-General in Council is pleased, under the provisions of Section 27 of the Indian Arms Act, 1878, to exclude swords imported for presentation as army or volunteer prizes from the operation of any prohibition and direction contained in that Act.—(*Government of India Notification No.* 957, *dated* 23*rd June* 1882).

(*k*). The Governor-General in Council is pleased, under the provisions of Section 27 of the Indian Arms Act, 1878, to exclude from the operation of any prohibition and direction contained in the Act, ornamental arms of an obsolete pattern possessing only antiquarian value, provided they are virtually useless for offensive or defensive purposes.—(*No.* 533, *dated* 31*st March* 1884, *Gazette of India of* 5*th April* 1884).

(*l*). The Governor-General in Council is pleased, under Section 27 of the Indian Arms Act, XI of 1878, to withdraw from the operation of the prohibitions and directions contained in Sections 13 and 14 of the said Act, the entire jagir of the Nawab of Amb, commonly known as Feudal Tanawal, including the Phulera Jagir, situated in the Hazara District of the Punjab.—(*Government of India No.* 1534, *dated* 15*th September* 1885, *Gazette of India of* 19*th idem*).

(*m*). Under Section 27 of the Indian Arms Act, 1878, the Governor-General in Council is pleased to exclude gun-wads, wire cartridges, and bullets from the operation of Section 6 of that Act. Bullets, however, will be subject to the restrictions placed on lead by paragraph IV (*b*) of Home Department Notification No. 518, dated the 6th March 1879.—(*Government of India No.* 591, *dated* 29*th April* 1886, *Gazette of India of* 1*st May* 1886).

(*n*). Under the provisions of Section 17 of the Indian Arms Act, 1878, the Governor-General in Council is pleased to direct that in the case of arms, ammunition, or military stores brought into the ports of Calcutta, Madras, Bombay, Rangoon, Calicut, Kurrachee and Aden, and declared under manifest to be consignments without transhipment for ports not covered by the exemptions granted under Home Department Notifications No. 1572 of the 29th August 1879, and No. 75, dated 14th January 1880, a license in the Form A annexed, covering the import and export of such consignments, shall be granted free of fee. Also that a license in the Form B annexed shall in like manner be granted free of fee in the aforesaid ports of Calcutta, Madras, Bombay, Rangoon, Calicut, Kurrachee and Aden to cover the transhipment of arms, ammunition, or military stores destined for other parts, provided that, if it is necessary to land any consignment in the course of transhipment, it shall be placed in bond, such fees being paid for stowage and other expenses as the Chief Customs Authority may prescribe.

The licenses shall be given in the following forms :—

FORM A.

FREE OF ALL FEE.

*License to import and export without transhipment arms, ammunition, or military stores in the port of* _____

| Name of Master of vessel or Agent in whose favour license is granted. | Name of vessel. | Number of packages. | Arms. | | Ammunition. | | Destination. | Name and residence of consignee. | Remarks. |
|---|---|---|---|---|---|---|---|---|---|
| | | | Description. | Number. | Description. | Number or weight. | | | |
| | | | | | | | | | |

(Signature).

Seal.

*Magistrate of the* *District,*

or

*The* 188 *Commissioner of Police.*

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FORM B.

FREE OF ALL FEE.

*License to tranship (with permission to land in bond) arms, ammunition, or military stores in the port of* _____

| Name of Master of vessel or Agent in whose favour license is granted. | Name of vessel (1) from which and (2) to which transhipped. | Number of packages. | Arms. | | Ammunition. | | Whether to be landed in bond or not. | Destination. | Name and residence of consignee. | REMARKS. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Description. | Number. | Description. | Number or weight. | | | | |
| | | | | | | | | | | |

(Signature.)

Seal.

*Magistrate of* *District,*

or

*The* 188 . *Commissioner of Police,*

*Endorsements to be printed on the reverse of the above forms.*

This license is given subject to the provisions of the Indian Arms Act, 1878, and the rules framed thereunder.

The contents of each package covered by this license must be described in legible letters on the outside of such package.

*Note.*—This endorsement will only be printed on reverse of Form B above.

The license will be void if, on being landed, the articles covered by it are not placed in bond.

This Notification supersedes that of the 21st August 1882, No. 1250.

(*Government of India No.* 574, *dated 4th April* 1884, *Gazette of India of 5th idem*).

(*o*) The Governor-General in Council is pleased under Section 17 of the Indian Arms Act, XI of 1878, to make the following Rule with respect to the export of ammunition, military stores and arms by sea to ports other than those specified in Rule 6 of the Rules published in the Notification of the Government of India, Home Department, No. 518, dated the 6th March 1879 :

*Rule.*—Notwithstanding anything in Rule 6 of the Rules aforesaid—

(*a*) a license to export ammunition or military stores, or to export arms other than cannon or than such rifles as come within the operation of Rule 5 of those Rules, from the port of Calcutta, Madras, Bombay, Rangoon, Calicut, Karachi, or Aden to any port in a Native State in India, or to any port in foreign territory except a port on the coast of Arabia or Africa, may be granted by the Secretary to the Government of India in the Foreign Department or by any officer specially empowered in this behalf by the Governor-General in Council ; and

(*b*) a license to export ammunition or military stores, or to export arms other than cannon or than such rifles as aforesaid, from the port of Aden to any port on the coast of Arabia or Africa may, under the authority of the Government of India certified to by the Secretary in

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the Foreign Department, be granted by the Political Resident at Aden. (*No.* 2648, *dated* 5*th October* 1888, *Gazette of India of* 6*th idem*).

See also Nos 4442 I, 4444 I, and 4447 I, dated 7th November 1888, *Gazette of India* of 10th idem, Part I, p. 517.

The following personal exemptions have been notified :—

1. The Oudh retainers of the Maharaja of Kapurthala.—(*Government of India Notification No.* 1008, *dated* 23*rd May* 1879).

2. Retainers of the Raja of Rampure, Jalaun District, N.-W. P.—(*No.* 1299, *dated* 18*th July* 1879).

3. Shahzada Ahmed Halleem-uz-Zaman and others.—(*No.* 127, *dated* 22*nd January* 1880).

4. Retainers of the Maharaja of Bahadawar, Agra District, N.-W. P.—(*No.* 595, *dated* 16*th April* 1880).

5. Retainers of Raja Sir Dinkar Rao, K. C. S. I.—(*No.* 1826, *dated* 6*th December* 1880).

6. Retainers of Raja Tillok Singh of Katiari in the Hardoi district, Oudh.—(*No.* 795 *dated* 16*th June* 1881).

7. Retainers of Raja Sirdar Singh of Katehra in the Jhansi district.—(*No.* 944, *dated* 7*th July* 1881).

8. Retainers of Raja Shooraj Singh of Kashipur.—(*No.* 1218, *dated* 23*rd August* 1881).

See also Note (*a*) at the end of the Act.

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Information to be given regarding offences.

**28.** Every person aware of the commission of any offence punishable under this Act shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information of the same to the nearest police-officer or Magistrate, and

every person employed upon any railway or by any public carrier shall, in the absence of reasonable excuse, the burden of proving which shall lie upon such person, give information to the nearest police-officer regarding any box, package, or bale in transit which he may have reason to suspect contains arms, ammunition, or military stores in respect of which an offence against this Act has been or is being committed.

Sanction required to certain proceedings under Section 19, clause (*f*).

**29.** Where an offence punishable under section nineteen, clause (*f*), has been committed within three months from the date on which this Act comes into force in any province, district, or place to which Section 32, clause 2 of Act XXXI of 1860 applies at such date, or where such an offence has been committed in any part of British India not being such a district, province, or place, no proceedings shall be instituted against any person in respect of such offence without the previous sanction of the Magistrate of the District, or, in a Presidency-town, of the Commissioner of Police.

Searches in the case of offences against Section 19, clause (*f*), how conducted.

**30.** Where a search is to be made under the Code of Criminal Procedure or the Presidency Magistrates Act, 1877, in the course of any proceedings instituted in respect of an offence punishable under section nineteen, clause (*f*), such search shall, notwithstanding anything contained in the said Code or Act, be made in the presence of some officer specially appointed by name or in virtue of his office by the Local Government in this behalf, and not otherwise.

Operation of other laws not barred.

**31.** Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by this Act: Provided that no person shall be punished twice for the same offence.

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Power to take census of fire-arms.

32. The Local Government may from time to time by notification in the local official Gazette direct a census to be taken of all fire-arms in any local area, and empower any person by name or in virtue of his office to take such census.

On the issue of any such notification, all persons possessing any such arms in such area shall furnish to the person so empowered such information as he may require in reference thereto, and shall produce such arms to him if he so requires.

Any person refusing or neglecting to produce any such arms when so required, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees or with both.

Notice and limitation of proceedings.

33. No proceeding other than a suit shall be commenced against any person for any thing done in pursuance of this Act, without having given him at least one month's previous notice in writing of the intended proceeding and of the cause thereof, nor after the expiration of three months from the accrual of such cause.

THE FIRST SCHEDULE.

| Number and year. | Title. | Extent of repeal. |
|---|---|---|
| XVIII of 1841 | An Act for consolidating and amending the enactments concerning the exportation of Military Stores. | So much as has not been repealed. |
| XXX of 1854 | An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces. | In the preamble the words "and that the exportation of munitions of war from any of these Provinces into foreign States should be prohibited." Section 11. |
| XXXI of 1860 | An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases. | So much as has not been repealed. |
| VI of 1866 | An Act to continue Act No. XXXI of 1860 (relating to the manufacture, importation and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases), and for other purposes. | The whole. |
| III of 1872 | The Santhal Parganas Settlement Regulation. | So much of the schedule as relates to Act XXXI of 1860 and Act VI of 1866. |
| IX of 1874 | The Arakan Hills District Laws Regulation, 1874. | So much of the schedule as relates to Act XVIII of 1841. |
| XV of 1874 | An Act for declaring the local extent of certain Enactments, and for other purposes. | So much of the first schedule as relates to Act XVIII of 1841. |

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## THE SECOND SCHEDULE.

*Repealed by Act XI of* 1882.

NOTES.—(*a*).—In continuation of Notification No. 9, dated 2nd January 1879, the following revised edition of the notification and rules made by the Governor-General in Council under "The Indian Arms Act, 1878," is published. The revised rules will take effect from the date of publication. The forms cited in these rules are precisely the same as those previously published :

I.—The Governor-General in Council is pleased, under Section 27, to exempt from the operations of all prohibitions and directions contained in Sections 13, 14, 15 and 16 of "The Indian Arms Act, 1878," other than those referring to cannon, articles designed for torpedo service, war-rockets, and machinery for the manufacture of arms and ammunition, the undermentioned persons, namely, –

(1) all Maharajahs, Rajahs, Nawabs, Members of any order of Knighthood ; all persons bearing a title conferred by the Government of India ; all persons who have been granted a sword in public Durbar ; all persons who received certificates on the 1st January 1877 ; all persons who are exempted from personal attendance at Civil Courts ;

(2) all Members or ex-Members of the Council of the Governor-General, or of the Governors of Madras or Bombay, or of the Council of the Lieutenant-Governor of Bengal ;

(3) all military and naval officers, all soldiers, sailors, volunteers, police officers, forest officers, postal officers, jail officers, serving the Government ;

(4) all Magistrates, Justices of the Peace, Honorary Magistrates, and judicial officers of or above the rank of Munsif, and officers of the Public Works Department of and above the rank of Assistant Engineer; †

(5) all European and East Indian subjects of Her Majesty the Queen-Empress ; all Armenians ; and all Americans and Europeans not British-born subjects of Her Majesty who are temporarily residing or travelling in India ;

(6) all Consuls, Consular Agents, all duly accredited Vakeels or Agents of Native States ;

(7) all Ruling Chiefs on the occasions of their entering, or residing in, British India, with their retinues, to such number as may in each case be settled by the political officer under the orders of the Foreign Department or of the Madras and Bombay Governments in respect to Chiefs whose political relations are with those Governments respectively ; and all officials of such Chiefs passing through British India on duty ;

* (8) all pensioned officers of the Native Army, and pensioned officers of civil departments who, when employed, were exempt ;

(9) the following personages and their retainers—

(*a*) the ancient zemindars and poligars of the Madras Presidency ;
(*b*) the Deccan and Southern Mahratta Sirdars ;
(*c*) the Maharajah of Bulrampore, K. C. S. I.
the Maharajah of Benares,
the Rajah of Gursahai,
the Rajah of Jagmanpore ;
the Rao of Gopalpuria ;

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* i. The Governor-General in Council is pleased, under Section 27 of the Indian Arms Act, 1878, to modify as follows the exemptions made in Notification No. 518, dated 6th March 1879:—

(*a*) Clause (3) of the exemptions made by the aforesaid Notification is cancelled, so far as regards the Punjab.

(*b*) Clause (8) of the same exemptions shall, so far as regards the Punjab, run as follows :—

"(8) All commissioned officers of the Native Army, pensioned or on active service ; pensioned officers of the Civil Department, who when actively employed were exempt ; and all non-commissioned officers and men of the Native Army under the circumstances provided for, and subject to the conditions prescribed in Section 12, paragraphs 71, 72, 73, 74, and 77 of the Bengal Army Regulations."—(*Government of India Notification* No. 1168, *dated* 23*rd July* 1880).

ii. The Governor-General in Council is pleased under Section 27 of the Indian Arms Act, XI of 1878, to modify as follows the exemptions made in Home Department Notification No. 1168, dated 23rd July 1880 :—

Clause (3) of the exemptions made by Notification No. 518, dated 6th March 1879, shall apply to the Punjab so far as it relates to Military and Naval Officers, soldiers sailors and volunteers serving the Government.

(*No.* 1946, *dated* 16*th November* 1886, *Gazette of India of* 10*th idem*).

† See No. 167, dated 12th November 1883, *Gazette of India* of 17th idem.

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(*d*) the great Sardars and Jagirdars of the Punjab;
(*e*) the zemindars of the scheduled districts in the Central Provinces;
(*f*) the great zemindars of Bengal;

subject to such orders as the respective Local Governments may issue regarding personages to be included in these categories, or the number of retainers in each case;

(10) landholders and members of Municipal Committees of approved loyalty and of good position, according to lists that may from time to time be issued by the respective Local Governments;

† (11) all heads of villages, ghatwals, dighwars, and other rural police, in respect of such arms as the Local Government may from time to time notify to be necessary for the discharge of their police duties; *

**(12) all Thoogyes, Yazawut-goungs, Kyadangees in British Burma;

(13) all persons of Coorg race, and all jumma tenure-holders in Coorg who by their tenures are liable for police and military duties;

(14) all subjects of the Baroda State who may transport arms or ammunition from one part of Baroda territory to another part of the same territory, under a license granted by the Resident or Assistant Resident of Baroda;

(15) all revenue officials and postal runners in frontier or wild districts, where the superior departmental officers direct them to carry arms on duty.

II.—The Governor-General in Council is pleased, under Section 27, to exclude from the operation of any prohibition and direction contained in the Act—

(*a*) spears of all kinds so far as regards the Presidency of Madras;

(*b*) weapons known as *kúkris* and *dhaos*, so far as regards the Lieutenant-Governorship of Bengal:

(*c*) weapons known as *dhars* so far as regards the Chief Commissionership of British Burma;

(*d*) swords, daggers, spears, *kúkris*, *dhaos*, so far as regards the Chief Commissionership of Assam;

(*e*) bows and arrows; and

(*f*) spears of all kinds in Bengal, so far as regards districts or parts of districts which the Local Government may declare to come within this exemption.

III.—The Governor-General in Council is pleased, under Section 27, to withdraw from the operation of prohibitions and directions contained in the Act certain tracts as follows:

(*a*) all scheduled districts in the Madras Presidency from all prohibitions and directions, save in respect to rifled arms and cannon, and except those directions contained in Sections 12 and 25;

(*b*) the Chittagong Hill Tracts of Bengal from the prohibitions and directions contained in Sections 13 and 14;

‡ (*c*) all scheduled districts in the Lieutenant-Governorship of the Punjab, except Hazara, and also certain tracts and villages on the Hazara frontier specially notified by the Local Government, from all prohibitions and directions contained in Sections 13 and 14;

(*d*) the Arracan Hill Tracts of British Burma from the prohibitions and directions contained in Sections 13 and 14; and

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† (*c*). Clause (11) of the same exemptions is cancelled, so far as regards the Punjab.—(*Government of India Notification No.* 1168, *dated* 23*rd July* 1880).

* See No. 371, dated 18th February 1887, *Gazette of India* of 19th idem.

** In exercise of the powers conferred by Section 27 (*b*) of the Indian Arms Act, 1878, the Governor-General in Council is pleased to cancel so much of this Department Notifications Nos. 518, dated the 6th March, 1879, and 544, dated the 9th April 1885, as exempts the under-mentioned classes of persons in Burma from the operation of the prohibitions and directions contained in Sections 13, 14, 15, and 16 of the Indian Arms Act, 1878, and again to subject them to the operation of those prohibitions and directions:

(1) Forest Officers.
(2) Postal Officers.
(3) Thugyis.
(4) Yazawut-gaungs.
(5) Deputy Inspectors of Schools.

(*No.* 971, *dated* 11*th May* 1888, *Gazette of India of* 12*th idem, Part I, p.* 213).

‡ See Punjab Government Notification No 2460, dated 3rd July 1879 (*Punjab Gazette of* 10*th idem*) for list of villages on the border of the Hazara district to which the prohibitions and directions contained in Sections 13 and 14 do not apply.

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(c) in the North-Western Provinces, the districts of the Jhansi Division and the parts of the Mirzapore District on the right bank of the River Sone, from the prohibitions and directions contained in Section 14.

* IV.—The Governor-General in Council is pleased to extend—

(a) all sections of the said Act to sulphur in quantities exceeding, in Burma, one seer and elsewhere throughout British India, ten seers; §

(b) Sections 6, 10, 11, 12, 17, 19, 20, 22, 24, 25, 26, and 28 of the said Act to all saltpetre and lead (except sheet lead used for the purpose of packing tea) in all districts on the external land frontier of British India and throughout Burma; ¶ and

* See No. 508, dated 1st March 1888, *Gazette of India* of 3rd idem, Part I, p. 101.

§ In modification of Home Department Notification No. 1617, dated the 7th October 1881, the Governor-General in Council is pleased to declare that licenses for the importation, possession, or transport of sulphur, proved to the satisfaction of the Local Government or Administration concerned to be intended only for *bonâ fide* medicinal, manufacturing, or agricultural purposes, may be granted without payment of any fee.—(*Government of India Notification No.* 1194, *dated 7th August* 1882).

With reference to Home Department Notification No. 1194, dated the 7th August 1882, it is hereby notified for general information that the concession therein allowed whereby licenses for the importation, possession, or transport of sulphur, proved to the satisfaction of the Local Government or Administration concerned to be intended for *bonâ fide* medicinal, manufacturing, or agricultural purposes, may be granted without payment of any fee, does not extend to sulphur intended for the manufacture of gunpowder or of ammunition generally as defined in Section 4 of the Indian Arms Act, 1878 (Act No. XI of 1878).—(*Government of India Notification No.* 1940, *dated 11th December* 1882).

¶ i. Under the provisions of Section 17 of the Indian Arms Act, 1878, and with reference to paragraph IV (*b*) of Home Department Notification No. 518, dated the 6th March 1879, the Governor-General in Council is pleased to make the following rule regarding the grant of licenses for the importation or transport of lead in all districts on the external land frontier of British India and in the sea-board districts of British Burma, when such lead is required for manufacturing or industrial purposes:—

*Rule.*—Licenses may be granted to persons without payment of any fee in all districts on the external land frontier of British India and in the sea-board districts of British Burma, entitling the holder to import or transport lead in reasonable quantities, when the same is proved to the satisfaction of the officer granting the license to be required *bonâ fide* for manufacturing or industrial purposes.—(*Government of India Notification No.* 1882, *dated 29th November* 1882).

ii. Under the provisions of Section 17 of the Indian Arms Act, 1878, and in continuation of Home Department Notification No. 1882, dated the 29th November 1882, the Governor-General in Council is pleased to make the following Rule regarding the grant of licenses for the possession of lead throughout Burma:

*Rule.*—Licenses may be granted by District Magistrates to persons without payment of any fee throughout Burma entitling the holder to possess lead in reasonable quantities when the same is proved to the satisfaction of the officer granting the license to be required *bonâ fide* for manufacturing or industrial purposes. This Rule does not authorise the grant of licenses for the possession of lead intended for the manufacture of ammunition.—(*No.* 2640, *dated 3rd October* 1888, *Gazette of India of 6th idem*).

iii. Under the provisions of Section 17 of the Indian Arms Act, 1878, and with reference to paragraph IV (*b*) of Home Department Notification No. 518, dated the 6th March 1879, the Governor-General in Council is pleased to make the following rule regarding the grant of licenses for the importation or transport of saltpetre in all districts on the external land frontier of British India and in the sea-board districts of British Burma, when such saltpetre is required for manufacturing, medicinal or industrial purposes:—

*Rule.*—Licenses may be granted to persons without payment of any fee in all districts on the external land frontier of British India and in the sea board districts of British Burma entitling the holder to import or transport saltpetre in reasonable quantities, when the same is proved to the satisfaction of the officer granting the license to be required *bonâ fide* for manufacturing, medicinal or industrial purposes.—(*No.* 1365, *dated 14th September* 1883. *Gazette of India of 15th idem*).

iv.—In exercise of the powers conferred by Section 4 of the Indian Arms Act, 1878, and in continuation of Home Department Notification No. 508, dated the 1st March, 1888, the Governor-General in Council is pleased to extend Sections 5, 7, 14, and 16 of the said Act to all saltpetre and lead (except sheet lead used for the purpose of packing tea) throughout Burma.—(*No.* 2639, *dated 3rd October* 1888, *Gazette of India of 6th idem*).

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(c) all sections of the said Act to all saltpetre and lead in the district and port of Aden.

V.—The Governor-General in Council is pleased, under Section 11, to sanction the establishment of searching stations, under Section 11, at—

(a) the land customs-houses near the boundary line between British India and the French Settlements on the Eastern and Western coasts and the Portuguese Settlements on the Western coast;

(b) Allanmyo near the external boundary line between British India and the Kingdom of Upper Burma.

The Governor-General in Council is pleased, under Section 9, to direct that at the said land customs-houses the duties specified in the second Schedule shall be levied.

VI—The Governor-General in Council is pleased, under Section 17, to make the following rules determining the officers by whom, the form in which, and the terms and conditions on and subject to which licenses shall be granted:

RULES.

TRANSPORT, IMPORT, AND EXPORT.

1. No cannon, articles designed for torpedo service, war-rockets, or machinery for the manufacture of arms and ammunition, shall be imported into British India, or transported over any part of British India without a license granted by the Governor-General in Council under the signature of the Secretary to the Government of India in the Home Department. The license shall be in Form I, appended to these rules, and a copy shall be at once communicated to the Magistrate of the District, or to the Political Officer of the State to which the articles are consigned.

‖ 2. No arms, or ammunition, or military stores, shall be transported in any part of British India without a license in Form II. appended to these rules. If the articles are despatched from Calcutta, Madras or Bombay, the license will be granted by the Commissioner of Police; in all other cases the license will be granted by the Magistrate of the District. If the articles are to be consigned to a place beyond the jurisdiction of the officer granting the license, the consent of the Magistrate of the District to which the consignment is made must be obtained before the license is issued. Such consent may be obtained by the person applying for the license; or the Police Commissioner, or District Magistrate, to whom application for the license is made, may forward the proposed license to the officer whose consent is required; and on receiving reply should either issue the license to the applicant, or inform him that his application for a license to transport arms, &c., had been refused. * The fee payable in respect of every such license shall be ten rupees.

3. Persons lawfully entitled to possess arms, or to go armed, are permitted to transport, in any part of British India, arms, or ammunition in reasonable quantities for their own use. Any person abusing this exemption and transporting such articles otherwise than in reasonable quantities for his own use will be held to have contravened this rule, and will, on conviction, become liable to the penalties under Sections 18 and 19.

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‖ The Inspector-General of Police has drawn the attention of the Punjab Government to the fact that the provision of rule 2 of the rules for the regulation of the transport of arms and ammunition published under notification of the Government of India's No. 518, dated 6th March 1879, which requires that no transport license shall be issued without previous consent of the Magistrate of the District to which the consignment is made, is not always observed.

2. The Lieutenant-Governor therefore takes this opportunity of drawing the attention of all Magistrates of Districts to this point, and to the necessity of acting up to all the rules regulating the transport of arms and ammunition in the most exact and strict manner. All dealers in arms should be warned that neglect to comply with the above provision of rule 2 renders them liable to imprisonment and fine as provided under Section 19 of the Arms Act; and any case in which arms or ammunition are transported, without the consent of the Magistrate of the District to which they are brought, should be reported through the Commissioner for the information of the Local Government.—(*Punjab Government Circular No.* 17-2829, *dated 27th August* 1880).

* See Government of India Notification No. 114, dated 25th January 1883.

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* 3 A. A person licensed to possess arms, ammunition, or military stores, or who is exempted from the liability to take out such a license, is entitled to transport to his residence, from the premises of a licensed dealer, arms, ammunition, or military stores without a separate transport license, so long as the articles purchased are in reasonable quantity and for his own use. A licensed dealer in arms, ammunition and military stores may supply the order of any such person, and may without a separate transport license send or despatch, in any way desired, to the residence of the purchaser the articles ordered by any such person so long as they fulfil the requirements of Rule 3, and are legibly addressed to the person for whom they are intended.

4. A license to transport arms or ammunition or military stores is void if the consignment breaks bulk at any place short of the district for which it may be granted. A license to transport shall ordinarily not be made valid for more than twice the period actually required for the conveyance of the articles to their destination by the intended route.

** 5. No license shall be granted, save by the special order of the Governor-General in Council, certified under the signature of the Secretary to the Government of India in the Home Department, for the exportation from British India, by sea, of any cannon, or of any rifles or parts of or fittings for rifles, except rifles or parts of or fittings for rifles of such quality, or in such quantity, as may reasonably be held to be intended for *bonâ fide* sporting purposes.

*** 6. Licenses to import or export arms, other than cannon or rifles not excepted as in the next foregoing rule, ammunition, or military stores by sea, may be granted at the ports of Calcutta, Madras, Bombay, Rangoon, Calicut, Kurrachee, Aden, and for no other ports. They shall be granted by the Commissioners of Police in respect of each Presidency Town, and by the Magistrate of the District in respect of Rangoon and Kurrachee. The fee payable in respect of each such license shall be ten rupees, and the licenses shall be in the Forms III and IV appended to these rules. It shall be a condition of such licenses that the arms and ammunition imported shall either be deposited in a warehouse sanctioned in this regard under Section 7 of the Indian Arms Act, or that they shall be at once despatched to their destination under a separate license to transport.

† 6A.—In the case of arms, other than cannon or rifles not excepted as in Rule 5, ammunition, or military stores imported under license into a British port and exported thence to another British port named in Rule 6 or in Rule 6 B., the necessary licenses for such re-export and import may be granted on payment of a fee of one rupee (each) instead of ten rupees. Such licenses shall be in Forms III and IV appended to these Rules.

† 6B.—Licenses to import by sea from Rangoon into the ports of Akyab, Moulmein, Sandoway, Kyoukphyoo, Tavoy, and Mergui may be granted by the Magistrates of the Districts in which those ports are respectively situated, in respect of arms other than cannon or rifles not excepted by Rule 5, ammunition, or military stores. The fee payable in respect of each such license shall be one rupee, and the license shall be in Form III appended to these Rules.

‡ 6C. Licenses to import into British India, by land or river, arms (other than arms for which the Governor-General in Council is to issue licenses under Rule 5), ammunition, or military stores, may be granted by the Magistrate of the district to which such arms, ammunition or military stores are consigned; or if such arms, ammunition, or military stores are consigned to a Presidency Town, by the Commissioner of Police. The fee payable in respect of each such license shall be Rs 5; but officers granting such licenses are empowered to remit the fee when the arms, ammunition, or military stores are of a reasonable quantity and such officers are satisfied that they are required *bonâ fide* for purposes of protection of person or property. In the case of arms, ammunition, or military stores imported from a Native State, a copy of the license shall be sent by the officer granting it to the Political Officer of the State from which they are to be imported. If the district to which the arms, ammunition, or military stores are consigned, is other than a frontier district, and they are to cross the frontier by road or river, a copy of the license shall also be sent to the Magistrate of the frontier district, who shall, if he thinks necessary, before permitting the arms, ammunition, or military stores to leave his district, require the holder of the license to produce them for his inspection. In cases in which the arms, ammunition, or military stores are to cross the frontier by rail, a copy of the license shall be sent to the Railway authorities at the place to which the arms, ammunition, or military stores are to be conveyed by Railway. The Railway authorities shall in every such instance satisfy themselves before delivery that the arms, ammunition or military stores claimed by any consignee correspond with the description given in the original license, which must be produced by him, and also that the license is identical in substance with the copy sent to them by the officer granting it. If the license is not produced, or the arms, ammunition, or military stores claimed do not correspond with the description in the license, the Railway authorities shall give immediate notice of the fact to the nearest Magistrate. Nothing in this rule applies to import into the district of Ajmere.

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* Added by Government of India Notification No. 474, dated 22nd February 1882.
** Amended by Government of India Notification No. 1842, dated 10th October 1879.
*** See Notes (n) and (o) to Section 27.
† Added by Government of India Notification No. 1601, dated 30th August 1879.
‡ Added by Government of India Notification No. 865, dated 8th June 1882.

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The licenses shall be prepared in the following form :—

FEE FIVE RUPEES IN STAMPS.

*License to import arms, ammunition, or military stores by river or land.*

| Name and residence of license-holder and agent, if any. | Number of packages. | Arms. | | Ammunition or Military stores. | | Place of despatch and route. | Purpose for which consignment is required. | Destination. | Number and residence of consignee. | Period for which license is valid. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Description. | Number. | Description. | Weight or Number. | | | | | |
| | | | | | | | | | | From the of 18 to the of 18 |

(Signature.)

Seal.

*The* 1881. *Magistrate of the District,* or *Commissioner of Police.*

*Endorsements to be printed on the reverse of the above form :—*

This license is valid only for the period and the route named herein.

It becomes invalid if bulk is broken, or the consignment stopped, at any place on the journey.

It is given subject to the provisions of the Indian Arms Act, 1878, and of the rules framed thereunder.

The contents of each package covered by this license shall be described in legible characters on the outside of such package.

This license must be delivered to the District Magistrate or the Commissioner of Police when the articles covered by it reach their destination. In the cases of consignments crossing the frontier by road or river, the article must, within six days of their reaching British territory, be available for exhibition to the frontier Magistrate, or other officer whom he may empower in this behalf. In case of consignments crossing the frontier by rail this license must be shown to the Railway authorities of the station of delivery.

* 7. Licenses to export arms or ammunition or military stores by land or by river to any place beyond the frontier of British India, or to any place within the limits of the feudatory

* (*a*).—Amended by Government of India Notification No. 1892, dated 25th November 1881.

(*b*).—The following Resolution of the Government of India on the subject of export of arms and ammunition from British territory to Native States, is published for general information.

The special attention of Political Officers is drawn to the last clause of paragraph 2. The copies of the licenses granted will be forwarded to the Government of India, through the Local Government :—

*No.* 117 I. P., *dated* 31*st January* 1880.

*Extract from the Proceedings of the Government of India in the Foreign Department.*

READ—

A Notification of the Government of India, in the Home Department, No. 518, dated 6th March 1879, publishing revised rules under the Indian Arms Act, 1878.

RESOLUTION.—Under the provisions of Rule 7 of the Arms Act Rules published in the Home Department Notification No. 518, dated 6th March, 1879, the Governor-General in

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States, and licenses to import arms or ammunition or Military stores into, or to export the same out of, the district of Ajmere, may be granted by the Secretary to the Government of India in the Foreign Department, or by any other officer specially empowered by the Government of India to grant them.

Licenses to export arms or ammunition or military stores by land or by river to any place within the political jurisdiction of the Government of Madras and Bombay, may be granted by the Secretaries to the Governments of Madras and Bombay respectively, copies of such licenses being sent to the Foreign Department of the Government of India for information. These licenses will be valid only for the State named in them, and no export beyond the limits of that State can be permitted under them.

Licenses granted under this rule will be prepared in Form V., and be charged with a fee of rupees five, except in such cases as the Government of India in the Foreign Department may grant exception from, or reduction of, the prescribed fee. Licenses to import arms, ammunition or military stores into Ajmere will also be granted in Form V., the word export in the heading of the license being changed into import.

Copies of such licenses shall be sent on the day of issue to the Political Officer of the State to which the articles are to be exported, and in the case of imports into Ajmere, to the Commissioner of the district. Copies shall also be sent to the Magistrate of the frontier district, if the articles are to cross the frontier by road or river. If the articles are to be carried across the frontier by rail, a copy of the license should, in the case of consignments despatched from Presidency Towns, be sent to the Commissioner of Police, and in other cases to the Magistrate of the district from which articles are to be despatched. In such cases the Commissioner of Police, or the Magistrate of the District, as the case may be, should a once forward a copy of the license to the Railway authorities at the place of despatch. No Railway Company shall receive for despatch any box, package, or bale containing arms, ammunition, or military stores as defined in the Arms Act and the rules framed thereunder, unless covered and accompanied by the original license granted under these rules, and the Railway authorities shall in every instance satisfy themselves that the goods tendered to them for transport correspond to the description given in such license, and that the license is identical with that forwarded to them by the Commissioner of Police or Magistrate of the District.

†7A. Nothing in Rule 5, 6, 6C or 7 shall be deemed to authorise the grant of licenses—

(*a*) to import any arms, ammunition or military stores from Portuguese India;

(*b*) to export to Portuguese India by sea, river, or land, any arms, ammunition, or military stores, except the same be exported for the exclusive use of the Government of Portuguese India, or are covered by a special license for import into Portuguese India signed by the Secretary-General to the Government of Portuguese India.

8. Persons desirous of transporting, importing by land or river, or exporting arms, ammunition, or military stores, must apply in writing to the nearest officer authorised to grant such licenses. The application must specify—

(*a*) the place to which the articles are to be transported, imported, or exported; the route of transport, import, or export, and the probable time that will be occupied in the journey;

(*b*) the quantity, description, average price, and the purpose of each kind of arms or ammunitions; or

(*c*) in the case of transport or export, whether the applicant has obtained the consent of the Magistrate or Political Officer of the place of consignment. [If so, the evidence of such consent must be produced].

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Council is pleased to authorize all Political Officers to grant licenses to the Native Chiefs under their charge, for the export of arms and ammunition from British territory in reasonable quantities for their personal use.

2. Such licenses will of course be granted after due enquiry, where necessary, and it will be within the discretion of the Local Governments, to whom the Political Officers are subordinate, to decide whether in particular cases a previous reference to them should not be required. The object of this Resolution is merely to remove any unnecessary difficulties in the way of the supply to Chiefs of ordinary sporting ammunition.

In all cases copies of the licenses granted under this order should be forwarded to the Foreign Department of the Government of India for information.—(*Punjab Government Notification No.* 301, *dated* 21*st February* 1880).

(*c*). See also Government of India Circular No. 2670, E. P., dated 12th November 1881, published as Punjab Government Notification No. 4287 A., dated 24th November 1881 (*Punjab Gazette of 1st December*).

† Rules 7 A to 10 are as prescribed by Government of India Notification No. 865, dated 8th June 188[illegible].

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9. Persons transporting, importing by land or river, or exporting arms, ammunition or military stores under a license, must write legibly on the cases or packages containing such articles an account of their contents.

10. In the case of transport, or import by land or river, the consignee must, within six days of the articles reaching their destination, deliver the transport or import license to the Magistrate of the District, or, in the case of a Presidency Town, to the Commissioner of Police. In the case of articles crossing the frontier of British India by road or river—

(1) the export license must, within six days of the consignment reaching the frontier district, and before it leaves British territory, be delivered to the Magistrate of the frontier district or other officer empowered by him on this behalf;

(2) the import license must, within six days of the consignment entering British territory, be shown to the Magistrate of the frontier district, or other officer empowered by him on this behalf.

The officer to whom the transport, import, or export license, as the case may be, may be delivered, must satisfy himself that the articles correspond with the entries in the license, and that any deficiency is properly accounted for.

MANUFACTURE AND SALE.

11. Licenses to manufacture, convert, keep, and sell arms or ammunition or military stores, may be granted by Commissioners of Police in the Presidency Towns, and by the Magistrate of the District outside those towns. They shall be in Forms VI and VII appended to these rules. The fee payable in stamps shall be twenty rupees in respect of licenses to manufacture and sell, &c., and ten rupees in respect of licenses to keep and sell, &c. Every license-holder under this rule, shall keep, in such form as the Local Government may from time to time direct, a record and account of all stock, and of all sales of arms and ammunition or sulphur, which he may keep or sell. He shall exhibit his stock and his record, or accounts, of stock and sales to any Magistrate, or to any police officer not below the rank of Inspector. Magistrates and all police officers not below the rank of Inspector are hereby empowered to enter and inspect any premises within their several jurisdictions in which arms or ammunition or sulphur are manufactured or kept, and to examine the stock and accounts of receipts and sales of arms, ammunition, and military stores. Any person licensed to sell arms and ammunition shall affix a board on a conspicuous part of his shop, or usual place of business, and shall cause to be painted thereon in large letters in English, or in the vernacular of the district, his name and the words "licensed to manufacture," or "licensed to deal in arms, ammunition and military stores," as the case may be. He shall also have a copy of Section 28 of the Indian Arms Act posted up, in the vernacular of the district, or in English, on some conspicuous part of his usual place of business.

POSSESSION OF ARMS AND GOING ARMED.

12. Licenses to possess cannon shall not be granted, save under the special order of the Governor-General in Council, certified under the signature of the Secretary to the Government of India in the Home Department. A copy of such license, so certified, must be sent immediately on its issue to the District Magistrate of the place where the cannon is to be kept.

13. Licenses to possess arms and ammunition in reasonable quantities and to go armed for purposes of sport, of protection, or of display may be granted by the Commissioner of Police in the Presidency Towns, and by the Magistrate of the District outside those towns in Form VIII. Such licenses shall be liable to a fee of eight annas for each weapon in disarmed districts, and to a fee of four annas for each weapon in districts which have not been disarmed. Such a license will authorise its holder to carry the arms described in the license, on occasions when they may be reasonably required for the purposes named in the license. But the holder, unless specially authorised by the Magistrate, must not go armed in railway carriages, to fairs, religious processions, or other public assemblages. Licenses granted under this rule shall, on countersignature by the Commissioner of the Division, or other officer authorised in this regard by the Local Government where there are no Commissioners, be valid for all the districts of the Local Government within the territories of which the license may have been granted.

*13A. Licenses to possess and carry arms in places to which Section 15 of the Indian Arms Act, 1878, applies may be granted by the District Magistrate, on plain paper and without fee, to the heirs of persons to whom arms have been presented by or under the orders of Government, in respect of any such arms which they may inherit. Such licenses shall be granted in Form VIII prescribed by Rule 13.

14. Any Commissioner of Police or Magistrate of the District may grant a license in Form IX for a journey, specifying the direction of the journey and the period it will occupy. Such license will be valid in other jurisdictions only for such journey and for such period, and will be liable to a fee of four annas for each weapon. Political Agents may grant licenses

*Added by Government of India No. 620 dated 17th April 1884 (*Gazette of India* of 19th *idem*).

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under this rule to natives of the States where they may be serving, and such licenses granted or journeys by Political Agents shall be liable to no fee Holders of such licenses under this ule, unless specially authorised by the officer granting the licenses, must not go armed in ai lway carriages, to fairs, religious processions, or other public assemblies.

15. Licenses to *possess* fire-arms or ammunition or military stores in districts which have not been disarmed may be granted in Form X without fee. Such licenses will not authorise the holders to go armed, or to carry arms. In districts which have not been disarmed, as well as in disarmed districts, licenses to possess and carry arms (Form VIII) will be liable to fees as stated in Rule 13.

16. Licenses for possession of arms and ammunition may be granted in Form XI without fee, and for a term of five years, to persons who require arms for the destruction of wild animals which do injury to human beings, cattle, or crops. Such license will be valid only in or on the immediate confines of the district for which it is granted. It will be subject to the conditions that the license and the weapon it covers is shown once a year, between the 15th November and the 31st December, to the nearest Magistrate ; that the weapon becomes confiscated to Government directly it is sold or seized in execution of any debt ; and that such weapon is carried only on occasions when it is to be used *bonâ fide* for the destruction of wild animals. Holders of licenses under this rule must not go armed in railway carriages, to fairs, religious processions or other public assemblages.

GENERAL.

* 17. The fees leviable under these rules shall be taken in the shape of "impressed stamps." Ordinarily the applications for licenses or renewals of licenses shall be written on "impressed stamps" of value equal to the amount of fee leviable in respect of such licenses or renewals ; and the licenses will be issued on plain paper. But when the licenses themselves are written, or printed on "impressed stamps" the applications may be on plain paper. When an application for a license is written on an "impressed stamp" and the license is refused, the value of the stamp will be refunded to the applicant.

* 18. Applications for licenses in respect of which no fee is leviable, or regarding licenses on which the full fee has been paid, shall be considered to be applications within the meaning of Schedule II, Article 1, Clause *(a)* of "the Court Fees Act, 1870," and shall bear a Court fee stamp of one anna.

19. All licenses under Rules 11 and 13 shall expire on the 31st December of the year for which they may be issued ; licenses under Rule 15 shall expire on the 31st December of the 5th year of their currency. But the currency of a license may be renewed, previous to its expiration, on payment of a second fee, by the same authority that granted it.

† 19A. When a license granted in accordance with these rules is lost or accidentally destroyed, a duplicate may be granted to the licensee on payment of the same fee as he paid on the original license if not in excess of one rupee, and in any other case on payment of a fee of one rupee.

Cultivators or other persons to whom licenses may have been granted without payment of any fee, may obtain duplicates of such licenses, if lost or destroyed, free of all fee.

†† 19 B. In British Burma licenses under Rule 13 may be current for such period not exceeding five years as the Deputy Commissioner shall in each case decide, provided that no such license shall be current for less than one year.

‡ 20. All licenses shall be given and held subject to the conditions endorsed on the reverse and subject to these rules, and subject to the provisions of the Act. Licenses under Rules 13 and 16 may be granted subject to the observance of a close season in the pursuit of game-birds or animals that do not injure either men, or cattle, or crops. The limits of the close season will be decided by the Local Government, and the condition regarding such close season, if imposed, shall be endorsed on the reverse of the license.

21. Any person holding a license, or acting under a license, granted in accordance with these rules, shall be bound to produce the same, when called upon to do so by any Magistrate or by any police officer in charge of a police station, or by any police officer of higher rank.

* Substituted by Government of India Notification No. 1258, dated 11th July 1879.
† Added by Government of India Notification No. 1435, dated 15th September 1882.
†† Added by No. 1733, dated 16th October 1884 (*Gazette of India of 18th idem*).
‡ RULES FOR A CLOSE SEASON FOR GAME PUBLISHED IN THE PUNJAB GAZETTE OF 26TH FEBRUARY 1880.

*No. 711½, dated 18th February* 1880.

THE Hon'ble the Lieutenant-Governor has been pleased to prescribe the following rules for a close season for game in the Punjab :—

In pursuance of the provisions of Rule 20, published in Notification No. 518 of 6th March 1879, and issued by the Governor-General in Council under Section 7 of the Indian Arms Act

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22. Licenses granted for use within a district shall be written or printed in the vernacular language of such district. Licenses granted in a Presidency Town, or for use beyond the district where they may be granted, shall be in English and may be in the vernacular as well.

23. The Assistant Resident at Aden shall exercise the powers of a Magistrate in respect of the grant of licenses under these rules.

24. A license granted under these rules will cover only the weapons, or other articles and the persons named therein, unless the officer granting a license under Rule 13 or 14 deems it expedient to include the retainers of any person named in the license; in such case the entry on the face of the license shall declare how many and whose retainers are covered by the liense.

25. Any officer empowered to grant a license under these rules may at his discretion refuse to grant, to renew, or to consent to the issue of, a license, or may refer any application for the orders of the Local Government.

26. All Magistrates or other authorities acting under these rules will perform their duties subject to the control of their executive superiors and of the Local Government.

FORM I.

*License to import, or transport, or possess cannon, articles designed for torpedo service, war rockets or machinery for the manufacture of arms or ammunition.*

| Name, &c., of license-holder and agent, if any, with residence, &c. | Number of packages. | Specification of calibre, &c., of cannon or other articles. | Number of articles. | Place of despatch and route. | Destination. | Name and residence of consignee. | Time for which pass is valid. | Use to which articles are to be put, and specification whether the license covers importation, or transport, or possession. |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | From the to the 18 . | |

Date on which copy is sent to the District Magistrate of the District or to the Political Officers of the State to which the articles are consigned, 18 .

Secretary to Government of India, Home Department.

18 .

THIS license is subject to all the provisions of the "Indian Arms Act, 1878," and of the Rules framed thereunder.

This license will be void after the expiration of the period named, or if bulk is broken before reaching the place of destination.

The articles covered by this license will be delivered only to persons lawfully entitled to possess them.

(No. XI of 1878), the Lieutenant-Governor of the Punjab is pleased to prescribe the following rules regarding a close season for game in the Punjab:

1. The close season for the game noted in Rule 2 shall be throughout the Punjab from 15th March to 15th September, both days inclusive.

2. Such close seasons may be prescribed in the case of game of the following classes; but subject to the provisions of Rule 3, there shall be no close season for any other birds or animals:—

| | | | |
|---|---|---|---|
| Partridges of all kinds. | Pea-fowl. | Pheasants. | Florican. |
| Sand grouse. | Jungle fowl. | Bustard. | Hares. |

3. In accordance with the above rule, the Deputy Commissioner of the district shall cause a description of such game only as he considers to need protection in his district, to be endorsed on the reverse of the license granted under Sections 13 and 16 of the rules made by the Government of India. The close season will then apply, in respect of the license-holder, and in the district where the license is granted, to game of the descriptions so endorsed.

4. In all districts in which the Deputy Commissioner considers it desirable, a condition may be entered on the license that deer, wild sheep and goats shall not be shot during the breeding season. The license-holder will then be bound to observe such condition.

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This license must be delivered to the Magistrate of the District to which the articles are consigned, or to the Magistrate of the District where the external frontier of India is to be crossed, and the articles must be available for exhibition to such Magistrate, within six days of the consignment reaching his district.

FORM. II.

FEE TEN RUPEES IN STAMPS.

*License to transport arms, ammunition, or military stores in British India.*

| Name, &c. of license-holder, and agent, if any, authorized for the purpose of this consignment. | Place of license-holder's business. | Number of packages. | Arms. | | Ammunition. | | Place of despatch, route, and mode of transit. | Time for which pass is valid. | Destination. | Name and residence of consignee. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | Description. | Number. | Description. | Number or weight in seers. | | | | |
| | | | | | | | | From the to the 18 . | | |

Date on which consent was given by the of the of the or where is the place of consignment, place of despatch. Seal.

The 18 . The 18 .

This license is subject to all the provisions of the "Indian Arms Act, 1878," and of the Rules framed thereunder.

This license is void after the expiration of the period named, or if bulk is broken before reaching the place of destination, or if the articles are taken by any route other than is specified on the license.

The contents of each package covered by this license must be described in legible letters on the outside of such package.

The articles covered by this license will be delivered only to persons lawfully entitled to possess the same.

This license must be delivered to the Magistrate of the District to which the articles are consigned, and the articles must be available for exhibition to such Magistrate, within six days of the consignment reaching his district.

The officer granting this license must send a copy thereof on the day of issue to the Magistrate of the District as above described.

NOTE.—The Governor-General in Council is pleased, under Section 17 of the Indian Arms Act. XI of 1878, to direct that the following Note shall be added to the clauses printed on the back of Form II of the forms of licenses published with Notification No. 518, dated 6th March 1879:—

*Note.*

When the license is granted for transport within the limits of the same district, the license must be given up to the local Magistrate (if any) having jurisdiction in the place to which the articles are consigned, who will satisfy himself that the conditions have been complied with and return the license to the District Magistrate. The District Magistrate will send copies of any license granted by him for transport within the district to the local Magistrate having jurisdiction. Where there is no local Magistrate, the license must be returned to the Magistrate of the District. (*Government of India No.* 1527, *dated* 16*th September* 1884, *Gazette of India of* 20*th idem*).

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## FORM III.

FEE TEN RUPEES IN STAMPS.

*License to import arms, ammunition or military stores into the Port of*

| Name, &c., and address of license-holder. | Number of packages. | Arms. | | Ammunition and sulphur. | | Purpose for which required. | Value of the cheapest fire-arms per piece. | Place where articles are to be deposited, or to which they are to be despatched. | Period for which the license is vaild. |
|---|---|---|---|---|---|---|---|---|---|
| | | Description. | Number. | Description. | Weight in seers or number. | | | | |
| | | | | | | | | | From the of to the of 18 . |

The of 18 } Seal. (Signature) of

This license is given subject to the provisions of the "Indian Arms Act, 1878," and the Rules framed thereunder.

This license becomes void after expiry of the period named thereon.

This license is valid for importation only; if the articles named herein are to be transported to any place outside the Presidency town, they must be protected by another pass for transport or export by land.

The contents of each package covered by this license shall be described in legible letters on the outside of such package.

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## FORM IV.

FEE TEN RUPEES IN STAMPS.

*License to export arms, ammunition or military stores by sea from the Port of*

| Name, &c., and address of license-holder. | Number of packages. | Arms. | | Ammunition and sulphur. | | Port to which consignment is to be despatched. | Period for which license is valid |
|---|---|---|---|---|---|---|---|
| | | Description. | Number. | Description. | Weight in seers. | | |
| | | | | | | | From the of to the of 18 |

Date on which copy of the license was despatched by the licensing officer to the Indian Port (if any) to which the consignment is to be despatched. } Seal. (Signature) of

The of 18 .

This license is not valid for export to any Indian Port, other than that named on the license.

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## * FORM V.

FEE FIVE RUPEES IN STAMPS.

*License to export arms, ammunition, or military stores under Rule 7 of the Rules made under Section 17 of the Indian Arms Act,* 1878.

| Name, &c., of license-holder and agent, if any. | Number of packages. | Arms. | | Ammunition or Military Stores. | | Place of despatch and route. | Purpose for which consignment is required. | Destination. | Name and residence of consignee. | Period for which license is valid. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Description. | Number. | Description. | Weight or number. | | | | | |
| | | | | | | | | | | From the of 18 to the of 18 . |

*Secretary to the Government of India,*
*Foreign Department.*

The 188 .

It is valid only for the period and the route named therein.

It becomes invalid if bulk is broken, or the consignment stopped at any place on the journey.

It is given subject to the provisions of the "Indian Arms Act, 1878," and of the Rules framed thereunder.

The contents of each package covered by this license shall be described in legible letters on the outside of such package.

The license must be delivered to the Railway authorites or to the frontier District Magistrate, or other officer empowered by him to receive export licenses on his behalf as provided in Rules 7 and 10. In the case of consignments crossing the frontier by road or river, the articles must be made available for exhibition to the frontier Magistrate or other principal officer within 6 days of their reaching the frontier district and before they leave British territory.

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## FORM VI.

FEE TWENTY RUPEES IN STAMPS

*License to manufacture, convert, or sell or keep arms, ammunition and military stores.*

| Name, &c., of license-holder and place of residence. | Place of business, factory, and shop. | Description of Arms. | | Description of Ammunition and Military Stores. | | Date on which license expires. |
|---|---|---|---|---|---|---|
| | | To be manufactured. | To be kept and sold. | To be manufactured. | To be kept and sold. | |
| | | | | | | The 31st of December 18 |

Seal.

(Signature)

of

* Amended Form prescribed by Government of India Notification No. 162 I. J., dated 25th June 1879. The endorsement is as amended by No. 1893, dated 25th November 1881.

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* THIS license is given subject to the provisions of the "Indian Arms Act. 1878," and the Rules framed thereunder. The special attention of the holder is drawn to Sections 16, 21, 22 and 28 of the Act.

The license-holder shall keep records and accounts of all arms made or converted; of all ammunition manufactured; of all stock in hand, and of all sales in such form as the Local Government may from time to time direct.

The license-holder shall exhibit his stock and his books of manufacture and sales to any Magistrate or to any police officer not below the rank of Inspector, when such officer may call upon him so to do.

The license-holder shall affix to his shop or place of business a sign-board as required by Rule 11, and shall post up in his shop a copy of Section 28 of the Act.

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FORM VII.

FEE TEN RUPEES IN STAMPS.

*License to keep and sell arms, ammunition, and military stores.*

| Name, &c., of license-holder and residence. | Place of business. | Description of | | Date on which license expires. | |
|---|---|---|---|---|---|
| | | Arms. | Ammunition and military stores. | | |
| | | | | The 31st of December 18 . | |

DISTRICT, 18 . } (Seal.) (Signature.) of

* THIS license is given subject to the provisions of the "Indian Arms Act, 187," and the Rules framed thereunder. The special attention of the holder is drawn to Sections 16, 21, 22 and 28 of that Act.

The license-holder shall keep records and accounts of all arms and ammunition in stock, and of all sales, in such form as the Local Government may from time to time direct.

The license-holder shall exhibit his stock, his records of sales, &c., to any Magistrate or to any Police Officer not below the rank of Inspector, when such officer may call upon him so to do.

The license-holder shall affix to his shop a sign-board as required by Rule 11 and shall post up in his shop a copy of Section 28 of the Act.

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* The following to be added to the endorsement on Forms VI and VII;

i. The license-holder shall at the time of purchase endorse upon the license of every purchaser holding a license under Form VIII or IX the following particulars:—

(1) the name and address of the person who takes delivery of the articles sold.

(2) the nature and amount of the articles sold;

(3) the date of sale;

and shall append his signature to the endorsement.

This license only covers sales of arms, ammunition, or military stores effected upon the premises shown on the face of the license.—(*Government of India Notification No.* 2100, *dated* 23*rd December* 1881, *and No.* 474, *dated* 22*nd March* 1882).

ii. The license-holder shall not sell arms to a soldier of the Native Army, unless he produce a written pass or permit signed by his Commanding Officer, and then only to the extent and on the conditions specified in such pass.—(*No.* 1195, *dated* 10*th July* 1885, *Gazette of India of* 11*th idem*).

iii. For special endorsement for licenses granted in Burma, see No. 2195, dated 16th August 1888, *Gazette of India* of 18th idem, Part I, page 383.

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## FORM VIII.

FEE EIGHT ANNAS FOR EACH WEAPON IN DISARMED DISTRICTS, FOUR ANNAS FOR EACH WEAPON IN OTHER DISTRICTS, PAYABLE IN STAMPS.

*License to possess arms or ammunition and to go armed for purposes of sport, protection, or display.*

| Name, &c., of license-holder, with particulars of residence. | Number of retainers, if any, who may be covered by the license (Rule 23). | Description and number of weapons covered by license. | Purpose for which granted. | District or place within which license is valid. | Term from which license expires. |
|---|---|---|---|---|---|
| | | | | | The 31st of December 18 . |

The of 18 . } Seal. (Signature) of the

* THIS license is granted subject to the provisions of the "Indian Arms Act, 1878," and the Rules framed thereunder.

It covers only the persons and the arms named therein, unless it is certified to cover retainers of the holder.

It is void after the date named therein.

It extends only to the place or district named therein, unless countersigned for the whole province by the Commissioner or other superior officer.

It authorizes the holder or persons acting under it to go armed within the place or district named for *bonâ fide* prosecution of the purpose named on the license; but it does not permit the holder or persons aforesaid to go armed in railway carriages, to fairs, religious processions or other public assemblages.

## FORM IX.

FEE FOUR ANNAS FOR EACH WEAPON PAYABLE IN STAMPS FOR LICENSES GRANTED IN BRITISH INDIA; FREE OF ALL FEES FOR LICENSES GRANTED BY POLITICAL AGENTS TO SUBJECTS OF NATIVE STATES.

*License to go armed—On a journey.*

| Name, &c., of license-holder, with particulars of his residence. | Number of retainers, if any, who may be covered by the license (Rule 23). | Description of arms and ammunition covered by this license. | Place of departure, route, and destination of journey. | Time which journey will probably take. | Date from which, and to which, the license is valid |
|---|---|---|---|---|---|
| | | | | | From the of 18 to the of 18 |

of 18 . } Seal. (Signature) of District.

* The following to be added to the endorsements on Forms VIII and IX:—

The license-holder shall at the time of purchase have the following particulars endorsed upon his license by the vendor from whom he purchases and under the vendor's signature:—

(1) the name and address of the person who takes delivery of the articles purchased;

(2) the nature and amount of the articles purchased;

(3) the date of purchase.—(*Government of India Notification No.* 2100, *dated* 23*rd December* 1881).

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* THIS license covers only the persons and the arms named therein, unless it is certified to cover retainers of the holder.

It is void after the expiration of the period named therein.

It is granted subject to the provisions of the "Indian Arms Act, 1878," and the Rules framed thereunder.

It does not permit holders to go armed in railway carriages, to fairs, religious processions or other public assemblages.

FORM X.

FREE OF ALL FEE

*License to possess fire-arms, ammunition or military stores in a district which has not been disarmed.*

| Name, &c., of license-holder, with particulars of residence. | Number and description of weapons. | Description and quantity of ammunition or military stores. | Place with full details where articles are to be kept. | Term for which license is valid. |
|---|---|---|---|---|
| | | | | From the of 18 to the 31st of December 18 . |

The of 18 . } Seal. (Signature) Magistrate of the District.

THIS license protects only the weapons and articles named, so long as they are kept in the place described on the license.

It does not authorize the holder to go armed or to carry arms.

It is granted subject to the provisions of the "Indian Arms Act, 1878," and the Rules framed thereunder.

FORM XI.

FREE OF ALL FEE.

*License to possess arms and ammunition for the purpose of destroying wild animals.*

| Name, &c., of license-holder, with particulars of residence. | Description of weapon. | Place or tract within which license is valid. | Term for which license is valid. | Title and residence of Magistrate to whom the license and weapon must be shown between the 15th November and the 31st December. |
|---|---|---|---|---|
| | | | From the of 18 to the 31st of December 18 . | |

The of 18 . } Seal (Signature) Magistrate of the District.

*Notes of Magistrate to whom the license and weapon are periodically shown.*

* See foot-note to last page.

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THIS license is granted subject to the provisions of the "Indian Arms Act, 1878," and the Rules framed thereunder.

The holder is bound to show his license and weapon once a year to the Magistrate of—

This license is void if the holder sells his weapon; if it is seized in execution of decree; if it is carried to any considerable distance beyond the limits of the places named in the license; or if he fails to show it once a year to the Magistrate aforesaid.

It is void on the death of the holder.

The holder must not go armed in railway carriages, to fairs, religious processions, or other public assemblages.

The holder is bound to observe a close season as prescribed by the Local Government in respect to the under-mentioned game-birds and animals which do no injury to men, cattle, or crops:

*Specification of animals or birds.* *Close season.*

(*Government of India Notification No.* 518, *dated 6th March* 1879).

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(*b*).—The following rules have been made by the Lieutenant-Governor under the Arms Act (XI of 1878), and under Government of India Resolution No. 518, dated 6th March 1879, and are notified for general information :—

POWERS.

I.—The Lieutenant-Governor is pleased to empower all Magistrates and all Police Officers not below the rank of officer in charge of a station to detain arms, ammunition, or military stores under Section 6.

II.—The Lieutenant-Governor is pleased to empower all Police Officers not below the rank of officer in charge of a station to conduct searches under Section 25.

III.—All Police Officers of rank not below that of officer in charge of a station are appointed, in virtue of their office, to conduct searches under Section 30.

STOCK AND ACCOUNT BOOKS TO BE KEPT BY LICENSED MANUFACTURERS AND DEALERS.

IV.—All persons holding licenses to manufacture, convert, keep, and sell arms, ammunition or military stores shall keep up stock books and accounts of receipts and issue, in the Forms A. and B. of the Appendix to these rules: and all persons holding licenses to keep or sell arms ammunition, or military stores shall maintain stock and account books in Forms C. and D.

The pages of these books are to be numbered, and before any entries are made the books shall be exhibited, together with the manufacturer's or dealer's license, to the Magistrate of the District or to a subordinate Magistrate.

Such Magistrate will sign the first and last pages of each book and seal them with his official seal.

V.—The shops, premises, and stocks of all licensed manufacturers and dealers shall be inspected once in every quarter, by a Police Officer not below the rank of Assistant District Superintendent of Police, or Inspector where there is no Assistant District Superintendent, and once at least in every year by the District Superintendent of Police.

At the time of inspection the books shall be initialled by the inspecting officer.

Any irregularity or breach of the rules which may be noticed shall be at once reported to the Magistrate of the District.

VI.—On receiving notice of a sale under Clause 2, Section 5, by a person lawfully possessing arms to any person not prohibited from possessing the same, the Magistrate or Police Officer may make inquiries as to the correctness of the purchaser's name and address, and if necessary obtain a report from the Superintendent of Police of the district in which the purchaser lives.

ARMS DEPOSITED IN A POLICE STATION.

VII.—When any arms, ammunition, or military stores have been deposited at a police station under Section 14 or 16 of the Act, the officer in charge of the station shall affix to each weapon or article a ticket showing the name of depositor and the date of deposit, and shall give the depositor a duplicate or copy of the same.

After seven days, if the owner has not obtained a license authorising him to possess them, the arms, ammunition, or military stores shall be forwarded to the head-quarters of the district, and kept in the malkhana of the Magistrate of the District or in the Police Magazine.

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The sheriff or other ministerial officer to whom they are entrusted shall keep a register in which the articles so deposited shall be described and entered under serial numbers, and fresh tickets shall be affixed showing the owner's name and the corresponding number of the register

ARMS AND MILITARY STORES SEIZED.

VIII.—Arms, ammunition, or military stores seized under Sections 11, 25, or 26 shall be similarly dealt with.

DISPOSAL OF CONFISCATED ARMS.

IX.—Arms, ammunition, or military stores that have become forfeited to Her Majesty under Sections 14 and 16, or that have been confiscated under Section 24, shall be disposed of as follows:—

If they can be utilised by the Police or any other Department of Government, they may be preserved and used.

If unserviceable or unsuitable for such use, they may be sold to persons entitled to possess such arms, ammunition, or military stores, or broken up, and the materials sold and the proceeds credited to Government.

Ammunition and military stores not so disposed of within a reasonable time shall be destroyed.

Gunpowder and explosive materials shall be lodged in the Police Magazine.

REWARDS TO INFORMERS.

X.—When any arms or other articles are confiscated under Section 24, the convicting Magistrate shall, immediately upon conviction, pay a reward of not less than half the value of the confiscated article to the person or persons who may have given information which led to the detection of the offence, or who may have assisted in the arrest of the offenders and seizure of the arms or other articles.

Such payments will be chargeable to Law and Justice, and be drawn by Magistrates in their contingent bills.

XI.—Any Magistrate convicting an offender of any offence under the Act may at his discretion grant a reward not exceeding the amount of fine imposed, in such proportions as he may think fit, to any person or persons who have contributed to the arrest of the offender or to the seizure of the arms or other articles.

REGISTERS OF LICENSES.

XII.—Every Magistrate of a district shall keep up in Form E of the Appendix to these rules a register of all licenses to manufacture, convert, keep or sell, granted by him under Rule 11 of the rules issued by the Government of India, and shall keep up in Form F a register of all licenses to keep or sell granted by him under the same rule.

All District Superintendents of Police shall keep up similar registers in English. Magistrates of Districts will supply to their District Superintendents of Police copies of all such licenses issued by them.

The District Superintendent of Police will furnish to each officer in charge of a Police station copies of extracts, columns Nos. (1) to (6), giving the names, &c., of persons licensed within his jurisdiction.

XIII.—All inspections of the shops, premises and stocks of licensed manufacturers and vendors by Inspectors of Police or superior officers shall be reported to the Magistrate of the District, and shall be entered in the registers.

XIV.—Registers of licenses granted by the Magistrate of the District under Rules 13, 15, and 16 of the rules made by the Government of India shall be kept up by him in Forms G., H., and I. respectively.

Similar registers will be kept up in English by the District Superintendent of Police, to whom the Magistrate of the District will furnish copies of all such licenses granted by him.

The District Superintendent of Police will supply each officer in charge of a station with an extract giving the parts of each register which concern his jurisdiction.

XV.—In place of the returns prescribed in Circular No. 7-669, dated 26th April 1867, and No. 12-944, dated 21st June 1867, the Lieutenant-Governor is pleased to direct that the Forms K., L. of the Appendix to these Rules be used.

Both returns will be prepared for the calendar year, and be submitted through Commissioners to the Inspector-General of Police

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FORM A.

*Stock Book of , son of , caste , resident of , licensed to manufacture, convert, sell or keep arms, ammunition, or military stores.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Description. | | | | | | | | | |
| | | *Fire-arms.* | | *Other weapons.* | | | | | | | |
| Date. | Particulars. | Guns. | Pistols. | Swords. | Bayonets. | Daggers. | Other. | Ammunition. | Military stores, including lead, sulphur, and saltpetre. | Name and address of the dealer or firm supplying the articles received. | Signature of licensee. |
| January 1st .. | *In store—* | | | | | | | | | | |
| | Manufactured, | | | | | | | | | | |
| | Received ... | | | | | | | | | | |
| January 2nd .. | Disposed of ... | | | | | | | | | | |
| | In store ... | | | | | | | | | | |

FORM B.

*Daily Sale Book of , son of , caste , resident of , licensed to manufacture, convert, or sell or keep arms, ammunition, and military stores.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Date. | Name and father's name of purchaser. | Caste and profession of purchaser. | Residence of purchaser. | Articles purchased. | Price. | Signature of purchaser and dealer. |

FORM C.

Is the same as Form B., except that in heading for words "licensed to manufacture," &c. read "licensed to keep and sell," &c., and in Column 2 omit the word "*manufacture.*"

FORM D.

Is the same as Form B, except that in heading for the words "licensed to manufacture," &c., read "licensed to keep and sell," &c.

FORM E.

*Register of licenses to manufacture, convert, keep or sell arms, ammunition, or military stores in District.*

| 1 | 2 | 2 | 4 | 5 | 6 | 7 | | | | | 8 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Inspection by | | | | By Magistrate of District or District Superintendent of Police. | |
| | | | | | | *Inspectors of Police.* | | | | | |
| Tahsil. | Number. | Name of licensee. | Father's name and caste and residence. | Place of business. | Date. | 1st | 2nd | 3rd. | 4th | | Remarks. |

FORM F.

Is the same as Form E. except that in heading for "licensed to manufacture," &c., read "licensed to keep and sell," &c.

FORM G.

*Register of licenses to possess arms or ammunition, and to go armed for purposes of sport protection, or display in District.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|
| Tahsil. | Number. | Date. | Name of license-holder. | Father's name, caste, &c. | Residence. | Number and description of weapons. | Remarks. |

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FORM H.

*Register of licenses to possess arms, ammunition, or military stores in a district which has not been disarmed.*

*District*——————

| The first seven columns as in Form G. | 8 | 9 | 10 |
|---|---|---|---|
| | Place where the arms are to be kept. | Term for which license is valid. | REMARKS. |

FORM I.

*Register of licenses to possess arms and ammunition for the purpose of destroying wild animals in District.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | | | | | 11 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Tahsil. | Number | Date. | Name of license-holder. | Father's name and caste. | Residence. | Place for which license valid. | Weapon. | Date of expiry of license. | INSPECTIONS BY MAGISTRATE OF WEAPON AND LICENSE. | | | | | REMARKS. |
| | | | | | | | | | 1st year. | 2nd year. | 3rd year. | 4th year. | 5th year. | |

FORM K.

*Return of licenses granted under Act XI. of 1878 in the District of for the year*

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| | Detail of licenses. | No. of licenses in force last year. | OPERATIONS OF THE YEAR. | | | No. in force at end of present year. | Remarks by Deputy Commissioner. | Remarks by Commissioner. |
| | | | New licenses. | Renewed licenses. | Revoked or suspended. | | | |
| 1 | In Form II. to transport arms, ammunition, or military stores. | | | | | | | |
| 2 | In Form VI. to manufacture, convert, or sell or keep. | | | | | | | |
| 3 | In Form VII. to keep and sell. | | | | | | | |
| 4 | In Form VIII. to possess arms or ammunition and to go armed for purposes of sport protection, or display. | | | | | | | |
| 5 | In Form IX. to go armed on a journey. | | | | | | | |
| 6 | In Form X. to possess arms, ammunition, or military stores in a district which has not been disarmed. | | | | | | | |
| 7 | In Form XI. to possess arms or ammunition for the purpose of destroying wild animals. | | | | | | | |

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FORM L.

*Annual Statement of the operation of the Arms Act XI. of 1878 in the District of for the year .*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Number of persons punished under | | | | | | | | | | | | | | Number and description of weapons confiscated. | | | | | | | | | | |
| Section 19 for offences under | | | | | | | | | | | | | | | | | | | | | | | | |
| Clause *a*. | Clause *b*. | Clause *c*. | Clause *d*. | Clause *e*. | Clause *f*. | Clause *g*. | Clause *h*. | Clause *i*. | Section 20, for secret breaches. | Section 21, for breach of license. | Section 22, for knowingly purchasing from an unlicensed person or delivering to person not authorized to possess. | Section 28, for failure to give information as required in Section 28. | Total punished (Columns 1 to 13). | Rifles. | Smooth-bore guns. | Pistols. | Swords. | Bayonets. | Daggers or knives. | Spears. | Others. | Value of fines imposed and realised. | Amount paid as rewards to informers, &c. | Remarks. |

This return will be submitted yearly through Commissioners to the Inspector-General of Police.

*Deputy Commissioner.*

(*Punjab Government Notification No.* 1956, *dated* 19*th May* 1879).

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## Act No. XII of 1878.

(*Passed on the* 28*th March* 1878).

An Act for the further amendment of the Punjab Laws Act, 1872.

Preamble.

For the purpose of further amending the Punjab Laws Act, 1872; It is hereby enacted as follows:—

Substitution of new section for Act IV of 1872, Section 5.

1. For Section 5 of the said Act, the following shall be substituted (namely):—

(*See Act IV of* 1872, *S.* 5).

Substitution of new sections for Act IV of 1872, Sections 9 to 18.

2. For Sections 9—18 (both inclusive) of the same Act, the following shall be substituted:—

(*See Act IV of* 1872, *SS.* 9—18).

Substitution of new section for Act IV of 1872, Section 35.

3. For Section 35 of the same Act the following shall be substituted (namely):—

(*See Act IV of* 1872, *S.* 35).

Amendment of Act IV of 1872, Section 38.

4. To Section 38 of the same Act the following clause shall be added, (namely):—
(*See Act IV of* 1872, *S.* 38.)

Amendment of Act IV of 1872, Section 40.

5. To Section 40 of the same Act shall be added the words 'and may withdraw any powers so conferred.'

Amendment of Act IV of 1872, Sections 43, 44 and 47.

6. In Sections 43, 44, and 47 of the same Act the words 'with the consent and' shall be omitted.

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7. Whoever breaks any rule made by the Local Government under the same Act shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to fifty rupees, or with both. All penalties inflicted since the fifteenth day of July 1875, which might have been inflicted if this section had been in force, shall be deemed to have been inflicted in accordance with law.

Penalty for breach of rules under Act IV of 1872.

8. To the same Act the following section shall be added :—

Recovery of advances made by Government.

(*See Act IV of* 1872, S. 52).

## ACT No. XVII of 1878.

(*Passed on the* 9*th November* 1878).

An Act to regulate Ferries in Northern India.

Whereas it is expedient to regulate ferries in the Punjab, the North-Western Provinces, Oudh, the Central Provinces, Assam, and Ajmere and Merwara; It is hereby enacted as follows :—

Preamble.

### I.—Preliminary.

1. This Act may be called "The Northern India Ferries Act 1878 :"

Short title

It extends only to the territories respectively administered by the Lieutenant-Governors of the Punjab and the North-Western Provinces and the Chief Commissioners of Oudh, the Central Provinces, Assam, and Ajmere and Merwara.

Local extent.

It shall come into force in each of the said territories on such date as the Local Government may, by notification in the official Gazette, fix in this behalf.

Commencement.

Note.—The Act came into force in the Punjab on the 1st April 1881.—(*Punjab Government Notification No.* 1168, *dated* 24*th March* 1881, *Punjab Gazette of same date*).

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant-Governor of the North-Western Provinces and the said Chief Commissioners, Bengal Regulation VI of 1819 shall be repealed therein; but all determinations, declarations, orders, and rules made, engagements entered into, and securities taken under the Regulation, and then in force, shall be deemed to be respectively made, entered into, and taken under this Act.

Repeal.

3. In this Act the word "ferry" includes also a bridge of boats, pontoons, or rafts, a swing-bridge, a flying-bridge, and a temporary bridge, and the approaches to, and landing-places of, a ferry.

Interpretation-clause.

### II.—Public Ferries.

4. The Local Government may from time to time—

Power to declare, establish, define, and discontinue public ferries.

(*a*) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;

(*b*) take possession of a private ferry and declare it to be a public ferry;

(*c*) establish new public ferries where, in its opinion, they are needed;

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(*d*) define the limits of any public ferry;

(*e*) change the course of any public ferry; and

(*f*) discontinue any public ferry which it deems unnecessary.

Every such declaration, establishment, definition, change, or discontinuance shall be made by notification in the official Gazette:

Provided that, when a river lies between two provinces, the powers conferred by this section shall, in respect of such river, be exercised by the Governor-General in Council, by notification in the *Gazette of India*, and not otherwise:

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made by an order under his hand by the Commissioner of the Division in which such ferry is situate, or by such other officer as the Local Government may, from time to time, appoint, by name or in virtue of his office in this behalf.

NOTE.—For List of Ferries declared to be "Public Ferries" under this section, see Notes (*a*) and (*aa*) at end of the Act.

Claims for compensation.

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under Section 4 shall be enquired into by the Magistrate of the District in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government.

Superintendence of public ferries.

6. The immediate superintendence of every public ferry shall, except as provided in Section 7 and Section 7, A be vested in the Magistrate of the District in which such ferry is situate, or in such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf; and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

NOTES.—(*a*). It has been notified under this section that the superintendence of the ferries, a list of which is given, shall be vested in the Executive Engineers of the Divisions within which they are situated during the time that they are maintained as bridges of boats.—(*Punjab Government Notification No.* 1361, *dated 5th April* 1881—*Punjab Gazette of* 14*th idem*).

(*b*). Notice is hereby given that under Section 6 of Act XVII of 1878 (The Northern India Ferries Act), the superintendence and arrangements for the management and for the collection of the authorised tolls leviable at the Chenab ferry at Wazirabad, and the bridge over the Palkhu stream at Wazirabad, have been transferred from the charge of the Deputy Commissioner of Gujrát to the charge of the Deputy Commissioner of Gujránwála.) - *Punjab Government Notification No.* 3044, *dated* 28*th November* 1884, *Punjab Gazette of* 4*th December* 1884, *Part I, page* 1200).

Management may be vested in municipality;

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town;

and proceeds paid into Municipal Fund.

and may further direct that all or any part of the proceeds from such ferry be paid into the Municipal Fund of such town;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

NOTE.—See Punjab Government Notification No. 1393, dated 22nd May 1886, *Punjab Gazette* of 27th idem, Part I, page 308.

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Management of ferries may be vested in committees and boards.

7A. The Local Government may direct that any public ferry, wholly or partly within the area subject to the authority of a district board or local board in any district in the territories under the administration of the Lieutenant-Governor of the Punjab, shall be managed by that board, and may further direct that all or any part of the proceeds from such ferry be paid into the district fund; and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

NOTES.—(*a*). Added by Act XX of 1883, Section 78. See also Act I of 1883, Section 43' and Act XIV of 1883, Section 64, which enact a similar section for the Central Provinces and N' W. P. and Oudh.

(*b*). See Punjab Government Notification No. 1392, dated 22nd May 1886, *Punjab Gazette* of 27th idem, Part I, page 305, No. 2611, dated 5th December 1887, *Punjab Gazette* of 8th idem, Part I, page 630, and No. 2776, dated 15th December 1888, *Punjab Gazette* of 20th idem, Part I, Page 781.

Letting ferry-tolls by auction.

8. The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years with the approval of the Commissioner, or by public auction, or otherwise than by public auction, for any term with the previous sanction of the Local Government.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under Section 7 or Section 7A, then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

NOTE.—As amended by Act III of 1886, Section 1.

Recovery of arrears from lessee.

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the District in which such ferry is situate as if they were arrears of land-revenue.

Power to cancel lease.

10. The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

Surrender of lease.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the District in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.

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Power to make rules.

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules consistent with this Act—

(*a*) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries;

(*b*) for regulating the time and manner at and in which, and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted;

NOTE.—Clause (*b*) is as amended by Act III of 1886, Section 1.

(*c*) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and

(*d*) generally to carry out the purposes of this Act;

and, when the tolls of a ferry have been let under Section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(*e*) for collecting the rents payable for the tolls of such ferries;

(*f*) in cases in which the communication is to be established by means of a bridge of boats, pontoons, or rafts, or a swing-bridge, flying-bridge, or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same, and

(*g*) in cases in which the traffic is conveyed in boats, for regulating (1) the number and kinds of such boats and their dimensions and equipment; (2) the number of the crew to be kept by the lessee for each boat; (3) the maintenance of such boats continually in good condition; (4) the hours during which, and the intervals within which, the lessee shall be bound to ply, and (5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

Private ferry not to ply within two miles of public ferry without sanction.

13. Except with the sanction of the Magistrate of the District or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no persons shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry.

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats which do not ply for hire or which the Local Government expressly exempts from the operation of this section.

NOTE.—As amended by Act III of 1886, Section 2.

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Person using approaches, &c., liable to pay.

14. Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry.

Tolls.

15. Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles, and other things crossing any river by a public ferry, and not employed or transmitted on the public service:

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles, or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under Section 8, any such declaration, if made after the date of the lease, shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division, or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

NOTE.—For rates of toll, exemptions, &c., under this section, see Notes (*b*), (*c*), (*d*), (*e*) at end of Act.

This section has been amended by Act III of 1886, Section. 1.

Table of tolls.

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry,

List of tolls.

and shall be bound to produce, on demand, a list of the tolls, signed by the Magistrate of the District or such other officer as he appoints in this behalf.

Tolls, rents, compensation, and fines how disposed of.

17. Except as provided by Section 7, and Section 7A, all tolls, rents, and compensation received by or on behalf of Government, and all fines levied under this Act, shall be disposed of as follows, that is to say—

(*a*) in the territories administered by the Lieutenant-Governor of the North-Western Provinces, the residue of such tolls, rents, compensation and fines, after defraying thereout all charges incurred in carrying out this Act in those territories, shall be credited to the fund constituted for those territories by the North-Western Provinces Local Rates Act, 1878;

(*b*) in the territories administered by the Chief Commissioner of Oudh, the residue as aforesaid shall be credited to the fund constituted for those territories by the Oudh Local Rates Act, 1878 ;

(*c*) in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of the Central Provinces, such tolls, rents, compensation, and fines shall be credited to the Local Government, and applied, first to defraying all charges incurred in carrying out this Act in those territories respectively, and then, at the discretion of the Local Government, to any of the purposes specified in the second clause of Section 7 of the Punjab Local Rates Act, 1878, or the second clause of Section 5 of the Central Provinces Additional Rates Act, 1878, as the case may be, and

(*d*) in the territories respectively administered by the Chief Commissioner of Assam and the Chief Commissioner of Ajmere and Merwara, such tolls, rents, compensation, and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this

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Act in those territories respectively, and then to such local works and establishments likely to promote the public health, comfort, or convenience as the Local Government, subject to the control of the Governor-General in Council, may from time to time direct.

Compounding for tolls.

**18.** The Local Government may, if it thinks fit, from time to time fix rates at which any person may compound for the tolls payable for the use of a public ferry.

III.—PRIVATE FERRIES.

Power to make rules.

**19.** The Commissioner of the division may, with the previous sanction of the Local Government, from time to time make rules for the maintenance of order and for the safety of passengers and property at ferries other than public ferries.

Tolls.

**20.** The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under Section 15 for similar public ferries.

IV.—PENALTIES AND CRIMINAL PROCEDURE.

Penalty for breach of provisions as to table of tolls, list of tolls, and return of traffic.

**21.** Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in Section 16,

or who wilfully removes, alters, or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in Section 16,

and every lessee who neglects to furnish any return required under Section 12,

shall be punished with fine which may extend to fifty rupees.

Penalty for taking unauthorized tolls, and for causing delay.

**22.** Every such lessee or other person as aforesaid, and any person in possession of a private ferry, asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle, or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for breach of rules made under Sections 12 and 19.

**23.** Every person breaking any rule made under Section 12 or Section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Cancelment of lease on default or breach of rules.

**24.** When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under Section 23, or having been convicted of an offence under Section 21 or 22, is again convicted of an offence under either of those sections,

the Magistrate of the District may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

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Penalties on passengers offending.

25. Every person crossing by any public ferry, or using the approach to or landing-place thereof, who refuses to pay the proper toll, and every person—

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee, or assistant not to do so, goes or takes any animals, vehicles, or other things into any ferry-boat, or upon any bridge at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles, or goods from, any such ferry-boat or bridge, on being requested by such toll-collector, lessee, or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

Penalty for maintaining private ferry within prohibited limits.

26. Whoever establishes, maintains or works a ferry in contravention of the provisions of Section 13 shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions.

Note.— As enacted by Act III of 1886, Section 2.

Fine payable to lessee

27. Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under Section 25, or Section 26 may, notwithstanding anything contained in Section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates paid to the lessee.

Penalty for rash navigation and stacking of timber

28. Whoever navigates, anchors, moors, or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft, or timber pending the inquiry and assessment hereinafter mentioned.

Power to arrest without warrant.

29. The police may arrest without warrant any person committing an offence against Section 25 or 28.

Power to try summarily.

30. Any Magistrate or Bench of Magistrates having summary jurisdiction under Chapter XVIII of the Code of Criminal Procedure, may try any offence against this Act in manner provided by that chapter.

Magistrate may assess damage done by offender.

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act, and the amount so ordered to be paid shall be leviable as if it were a fine, or

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when the offence is one under Section 28, by the sale of the vessel, raft, or timber causing the damage, and of any thing found in or upon such vessel or raft.

The Commissioner of the division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

V.—MISCELLANEOUS.

Power to take possession of boats, &c., on surrender or cancellation of lease.

32. When the lease of the tolls of any ferry is surrendered under Section 11 or cancelled under Section 24, the Magistrate of the District may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

Similar power in cases of emergency.

33. When any boats or their equipment or any materials or appliances suitable for setting up a ferry are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other person on the business of Her Majesty, or of any animals, vehicles, or baggage belonging to such officers, troops, or persons, or of any property of Her Majesty, the Magistrate of the District may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Jurisdiction of Civil Courts barred.

34. No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act, shall be cognizable by any Civil Court.

Delegation of powers.

35. The Local Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district, or to such other officer as it thinks fit, by name or by virtue of his office.

NOTE.—Under the provisions of Section 35 of Act XVII of 1878, the Hon'ble the Lieutenant-Governor is pleased to delegate to Magistrates of Districts the power of fixing rates at which persons may compound under Section 18 for tolls payable for the use of a public ferry.—(*Punjab Government Notification No.* 1364, *dated 5th April* 1881; *Punjab Gazette of 14th idem*).

Validation of proceedings since repeal of Regulation VI of 1819 in Punjab.

39. All matters determined, orders issued, acts done, penalties imposed, and proceedings held in the territories administered by the Lieutenant-Governor of the Punjab after the repeal of Bengal Regulation VI of 1819 by the Punjab Laws Act, 1872, Section 4, and before this Act comes into force in such territories, shall, whenever such determinations, orders, acts, penalties, or proceedings would have been lawful if the said Regulation had been in force, be deemed to have been respectively determined, issued, done, imposed and held in accordance with law.

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NOTES.—(*a*). The following Notification by the Government of India in the Public Works Department, is republished for information :—

*No.*233, *dated 5th July* 1881.—Under the provisions of Section 4 of the Northern India Ferries Act, No. XVII of 1878, the Governor-General in Council is pleased to declare that the ferries named in the following schedule are public ferries, and that for the purposes of the Act they are situated in the Punjab.

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| Province. | Division. | District. | Name of Ferry. | Remarks. |
|---|---|---|---|---|
| Punjab. | Delhi. | Delhi ... | Mamarpur. | Bridge-of boats. |
| | | | Chaensa. | |
| | | | Dahisra. | |
| | | | Burari. | Without bridge-of-boats. |
| | | | Wazirabad. | |
| | | | Okhla. | |
| | | | Jethpur. | |
| | | | Karauli. | |
| | | | Mahabatpur. | |
| | | | Kabulpur. | |
| | | | Majholi. | |
| | | | Shahjehanpur. | |
| | | Gurgaon ... | Sheikhpur. | Without bridge-of-boats. |
| | | | Solra. | |
| | | | Bhalrah. | |
| | | | Gurwari. | |
| | | | Sultanpur. | |
| | | | Bilochpur. | |
| | | | Hasanpur. | |
| | | | Mahauli. | |
| | | Karnal ... | Sanauli. | Bridge-of-boats. |
| | | | Mirghan. | |
| | | | Begi. | Without bridge-of-boats. |
| | | | Dubkowli and Rundowli. | |
| | | | Kalsowra. | |
| | | | Chawgaon. | |
| | | | Khoggipur. | |
| | | Umballa ... | Rajghat. | Without bridge-of-boats. |
| | | | Gumthulla. | |
| | | | Tika and Pubari. | |

(*Punjab Government Notification No.* 1753, *dated 6th September* 1882, *Punjab Gazette of 4th idem*).

(*aa*).—Under the provisions of Section 4 of Act XVII of 1878, the Hon'ble the Lieutenant-Governor is pleased to declare that the following Ferries shall be deemed to be "Public Ferries" and situated within the districts named against them.

*Statement showing the "Public Ferries" in the Districts of the Punjab.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| DIVISION. | DISTRICT. | NAME OF FERRY. | River on which situate. |
| Delhi ... | Karnal ... | Dhindawta, Titana, Ratta Khera ... ... ... | Ghuggar. |
| | | Sota ... ... ... ... ... ... ... | Sarsuti. |
| Hissar ... | Hissar* ... | *Nil* | *Nil.* |
| | Rohtak ... | *Nil* | *Nil.* |
| | Sirsa ... | Moazzim, Jhangar, Amruka, Ghurka ... ... | Sutlej. |
| | | Khaireka, Jharoo ... ... ... ... ... | Ghuggar. |

* Under the provisions of Section 4 of Act XVII of 1878 (The Northern India Ferries Act), the Hon'ble the Lieutenant-Governor is pleased to declare that the following ferries shall be deemed to be public ferries and situated within the Hissar District:—

| Village. | Tashil. |
|---|---|
| Panihari, Surbadh ... ... | Sirsa. |
| Kalotha, Ratia ... ... | Fatahabad. |
| Jakhal, Sadhanwas ... ... | Barwala. |

(*No.* 1365, *dated* 10*th October* 1888, *Punjab Gazette of* 11*th idem, page* 683).

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| 1 | 2 | 3 | 4 |
|---|---|---|---|
| DIVISION. | DISTRICT. | NAME OF FERRY. | River on which situate. |
| Umballa ... | Umballa ... | Rupar and Miani, Mulana and Chahlan, Awankot. | Sutlej. |
| | | Tangri ... ... ... ... ... ... ... | Tangri. |
| | | Raksi ... ... ... ... ... ... ... | Raksi. |
| | | Chautang ... ... .. ... ... ... | Chautang. |
| | | Sarsuti ... ... ... ... ... ... | Sarsuti. |
| | Ludhiana... | Phillour, Sherpur, Jodewal, Khanpore, Chountan. Joulamajra, Matawara, Lussara, Kurriana, Moh, Bhoondri, Sidhwan, Tehara ... ... ... ... | Sutlej. |
| | Simla ... | *Nil* | *Nil.* |
| Jullundur ... | Jullundur.* | Wazir Bhullar, Chakoke, Gagrewal, Bairowal, Bagha, Gowindwal, Khamba, Johal, Mondah, Ghurka, Ahli. | Beas. |
| | Hoshiarpur | Kathgarh, Byanpur, Pakhowal, Nowshera, Mauli, Bagharian, Bhetan, Sri Gobindpur ... ... ... | Beas. |
| | | Kiratpur, Anandpur, Sainowal, Bahrampur, Jindbari, Nangal, Dhaulkhani ... ... ... ... ... | Sutlej. |
| | Kangra ... | Sujanpur, Nadaon, Chamba, Dehra Gopipur, Dada Siba, Raie Riali, Bhogarwan, Sorawan ... ... | Beas. |
| Amritsar ... | Amritsar ... | Kakkar, Daiwala, Jassar, Kusuwala, Phulpura, Vaira, Bhindia, Bhainian, Daud, Mirowal, Laddar ... | Ravi. |
| | Sialkot ... | Pul, Kuri Mari, Kuluwal ** Bhakharyali, Nala Tawi, Nungwal, Khoja Chak, Sodhra ... ... ... | Chenab. |
| | Gurdaspur | Basowali, Srinagar, Shahpur, Baherian, Sunder Chak, Gidri, Jehla, Akhwara, Jalala, Durangla, Trimmu, Dera Afghana, Chanduvadala, Bulaki Chak, Dera Nanak ... ... ... ... ... ... ... | Ravi. |
| Lahore ... | Lahore ... | Shadera, Kadirabad, Dhanua, Talwara and Mari, Lakhodar, Karroul, Bhai Rupa, Faizpur, Saggian Attari, Sadhanwala, Niazbeg, Shahpur, Chung, Mohlanwala Khudpur, Ranjitpur Manga and Hardeotho, Lukhan, Maddran, Mailwal, Jujja and Naroka, Guru ki Dalla, Ujla and Alpa ... ... | Ravi. |
| | Gujranwala, | Kala, Pheroke, Ramnagar, Garhi, Khanke, Chuchak, Mahmudpur, Hazara, Burkan, Kadirabad †† ... | Chenab. |
| | Ferozepore, | *Sutlej Bridge-of-boats.* *** Kawan, Miani, Godha Mandi, Adrisa, Harriki, Hamidwala, Talli, Nagar, Kundeke, Mamdot, Matter, Bahadure, Panj Garain, Bagheki Jodha, Khewa ... ... ... ... | Sutlej. |
| Rawalpindi, | Rawalpindi, | Hil, Bagam, Dangali, Salgraon, Latchman, Seri, Khudar, Malot, Rampattan, Owen ... ... | Jhelum. |
| | | Makhad, Harro ... ... ... ... ... ... | Indus. |

* Under the provisions of Section 4 of Act XVII of 1878 it is hereby notified that the following ferries, which have hitherto been controlled by the Deputy Commissioner of the Jullundur District, shall for the purposes of the said Act be deemed to be situated in the Amritsar and Gurdaspur Districts respectively, with effect from the 4th March 1886 :—

*For the Amritsar District.*

(1). Wazir Bhullar.
(2). Chokokhi.
(3). Gagrewal.
(4). Bairowa
(5). Gowindwal.
(6). Khamba.
(7). Johal.
(8). Manda.
(9). Ghurka.
(10). Ahli.

*For the Gurdaspur District.*

Bagha.

(*No.* 606, *dated 4th March* 1886, *Punjab Gazette of same date, Part* I, *p.* 85).

** Transferred from the Gujranwala to the Sialkot District, from 1st April 1882. See Punjab Government Notification No. 181, dated 1st May 1882 (*Punjab Gazette of 4th idem*).

†† See No. 605, dated 23rd March 1887, *Punjab Gazette* of 4th idem, Part I, p. 139.

*** Discontinued. See No 17, dated 6th January 1886, *Punjab Gazette* of 7th idem, Part I,



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| 1 | 2 | 3 | 4 |
|---|---|---|---|
| DIVISION. | DISTRICT. | NAME OF FERRY. | River on which situate. |
| Rawalpindi, | Jhelum ... | Jhelum, Pind Dadan Khan, Dangrote, Mangla, Gatalian, Kote Basira, Khuhar, Puran, Basul, Mariala, Jelalpur, Jaitipur, Chak Nizam, Ahmedabad, and Pind Retwal* ... ... ... ... | Jhelum. |
| | Gujrat ... | Chenab, Wazirabad ... ... ... ... ... | Chenab. |
| | Shahpur ... | Shahpur, Chachar, Sada Kamboh, Dhak, Khushab, Tankiwala, Hamoka, Shekhowal, Thatti Hargan, Langarwala, Tetri, Jaora, Majoka, Kahlian, Bunga Surkhru ... ... ... ... ... ... | Jhelum. |
| Mooltan ... | Mooltan ... | Nakreri, Nasratpur, Samplanwala, Tolamba, Ghauspur, Baghdad, Buchenwala, Ram Chawtra, Sarai Sidhu, Shakruwala, Batianwala, Fazilshah, Muhanwala, Tragranwala, Alipur, Ghattoi, Chuhepur, Arewala, Rajghat, Hamandpur, Kot Imam-ud-din Pahladpur, Aimawala, Gujranwala, Aliwahan-Bandwala, Nahrwala, Samasatta, Sirahatta, Bindrewala, Laiwahan, Gudhpur, Mohranwala, Channet wala, Mangwanewala, Mir Muhammadwala, Go Shah Muhammad, Tibi Lal, Sohara, Golanwala, Dehra Lala, Durpur, Khurrampur, Fattehpur, Nekokara, Muradpur, Nurpur, Azimpur, Ralia Shah Sharraf, Fatteh Shah, Mehru, Biloch, Lakha Saldera, Sahkua ... ... ... ... ... | Chenab. |
| | Jhang .. | Chautra, Alipur, Jhang, Mohal, Mori, Kot Iseshah, Machewal, Shahidawala, Sajhar, Kalera, Kot Khan, Kot Maldeo, Chiniot, Sheikhan, Sajanki, Trimmu, Haveli Bahadur Shah, Islampur, Hassuwali Badh, Rajbana, Kharanwala, Dab Kalan, Katcha Kimira, Fakir Siyal ... ... ... ... ... ... | Chenab. |
| | Montgomery | Khai, Alamshah, Mehr Shahana, Kutab Shahana, Muhammad Shah, Hakim ke Kathia, Kikri Pathri, Shekhuke, Fordwah, Mari Jhamra, Pir Ali, Jhando, Majhani, Faridabad, Killa Bhamba Singh, Bhila, Maleke, Ahloke, Malkana, Bhalla, Sahanwali, Bhukh, Madhu, Jamlera ... ... ... ... | Chenab. |
| | Muzaffargarh | Sher Shah, Bulawaha, Dholanwala, Dhandnwala, Tibbewala, Ganga, Binda Ishak, Shahpur, Shahr Sultan, Mudwala, Bukhri, Makhan Bela, Kundrala, Nurwala, Khangarh Doma, Jhokewala, Bet Esanwala, Moh wala, Mad Daulat Shahwala, Naranwala, Shah wala ... ... ... ... ... | Chenab. |
| Derajat ... | Dera Ismail Khan | Dera, Shinki, Balot, Jai, Dalwala, Kanjan, Sukhi, Kahiri, Fatteh Khan, Muhrel ... ... ... | Indus. |
| | Bannu ... | Mianwali, Rokri' Moch, Kalabagh ... ... ... | Indus. |
| | Dera Ghazi Khan. | Koreishi, Kinjhar, Annukhar, Bet Sawai, Shergarh, Dhariwala, Marjhangi, Ghali, Shahwala, Pirwala, Ratta Leghari, Ser-i-Miani, Mithankot, Wang, Nurpur, Nowshera, Kotla, Andrun, Mehrawala, Rekh, Bengala, Bhagsar, Mad Mauther, Rajhan, Kin, Shahwali, Kehalwala, Kotla Sher Muhammad, Abadpur ... ... ... ... ... ... | Indus. |
| Peshawar ... | Peshawar ... | Attock ... ... ... ... ... ... ... | Indus. |
| | | Jehangira, Akora, Nowshera, Khaishki, Dheri, Dobandi, Zakhi, Mian Gujar, Shah Alam, Nagoman, Adazai, Michni ... ... ... ... ... | Kabul. |
| | | Abazai ... ... ... ... ... ... ... | Swat. |
| | | Hind ... ... ... ... ... ... ... | Indus. |
| | Hazara ... | †*Kohala, Garhi Habibulla*, Dalmahot ... ... ... | Jhelum. |
| | Kohat ... | Khushalgarh, Shadipur, Nailab... ... ... ... | Indus. |

(*Punjab Govt. Notification No.* 1360, *dated 5th April* 1881, *Punjab Gazette of 14th idem*).

*NOTE.—See No. 2088, dated 25th October 1882—(*Punjab Gazette of 26th idem*).

† Cancelled as regard Kohala and Garhi Habibulla by No. 1022, dated 10th April 1884 (*Punjab Gazette of 17th idem, Part I, p.* 506).

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(*b*).—The Hon'ble the Lieutenant-Governor is pleased to fix the following rate of toll to be levied at public ferries under Act XVII. of 1878 :—

SCHEDULE.

| | Rs. | A. | P. |
|---|---|---|---|
| On every four-wheeled carriage ... | 2 | 0 | 0 |
| On every two-wheeled carriage ... | 1 | 0 | 0 |
| On every ekka ... ... ... | 0 | 4 | 0 |
| On every hackery on springs ... | 0 | 2 | 0 |
| On every cart and hackery, not on springs, drawn by 8 bullocks, buffaloes, horses, ponies, asses or mules, if laden ... ... ... | 1 | 8 | 0 |
| Ditto ditto, if not laden ... | 0 | 8 | 0 |
| On every cart or hackery, drawn by 6 bullocks, buffaloes, horses, ponies, asses or mules, if laden ... ... | 0 | 12 | 0 |
| Ditto ditto, if not laden... ... | 0 | 6 | 0 |
| On every cart or hackery, drawn by 4 bullocks, buffaloes, horses, ponies, asses or mules, if laden ... ... | 0 | 8 | 0 |
| Ditto ditto, if not laden ... | 0 | 4 | 0 |
| On every cart or hackery drawn by 2 bullocks, horses, ponies, asses or mules, if laden .. ... ... | 0 | 4 | 0 |
| Ditto ditto if not laden ... | 0 | 2 | 0 |

| | Rs. | A. | P. |
|---|---|---|---|
| Buffaloes or bullocks per head, if laden, | 0 | 1 | 0 |
| Ditto ditto, if not laden ... | 0 | 0 | 6 |
| On every elephant ... ... ... | 1 | 8 | 0 |
| On every camel, if laden ... ... | 0 | 8 | 0 |
| Ditto, if not laden ... .. | 0 | 4 | 0 |
| On every horse, if laden or ridden ... | 0 | 1 | 6 |
| Ditto, unladen or led ... | 0 | 0 | 9 |
| On every tattoo or mule, if laden or ridden ... ... ... ... | 0 | 0 | 9 |
| Ditto ditto, unladen or led ... | 0 | 0 | 6 |
| On every ass, laden or ridden ... ... | 0 | 0 | 6 |
| Ditto, unladen or led ... ... | 0 | 0 | 3 |
| On every sheep or goat or pig... ... | 0 | 0 | 1 |
| On every palanquin, dooly, palki or tonjon, with 8 bearers ... ... | 1 | 0 | 0 |
| Ditto ditto, with 6 bearers, | 0 | 12 | 0 |
| Ditto ditto, with 4 ditto ... | 0 | 8 | 0 |
| Ditto ditto, with 2 ditto ... | 0 | 4 | 0 |
| On every foot passenger ... ... | 0 | 0 | 3 |

*N.B.*—Animals drawing any vehicle for which toll can be demanded are not to be also charged with toll.—(*Punjab Government Notification, No.* 1362, *dated 5th April,* 1881.--*Punjab Gazette of* 14*th idem*).

In modification of Notification, No. 1362, dated 5th April 1881, Home Department, the Lieutenant-Governor is pleased to prescribe, under Section 15 of Act XVII of 1878, that tolls at the following rates shall be levied at all public ferries in this province :—

On every camel, if laden ... 4 annas.
" " " if unladen ... 2 "

(*Punjab Government Notification, No.* 206, *dated 25th January* 1882, *Punjab Gazette of 2nd February*).

In modification of Notification, No. 1362, dated 5th April, 1881, as amended by Notification No. 206, dated 25th January 1882, the Hon'ble the Lieutenant-Governor is pleased to prescribe under Section 15 of Act XVII of 1878, that at the undermentioned ferries, held on lease in the Dera Imail Khan and Dera Ghazi Khan Districts, the rates of tolls entered in the agreement under which the leases are held shall be levied during the currency of existing leases:—

*Ferries in the Dera Ismail Khan District.*

1. Shinki.
2. Belot.
3. Jai
4. Dalwala.
5. Kahiri,
6. Sukhi.
7. Fatteh Khan.
8. Mahrel.

*Ferries in the Dera Ghazi Khan District.*

1. Marjhangi.
2. Shahwala.
3. Ghali.
4. Pirwala.
5. Bet Sawai.
6. Anokhar.
7. Dhaniwala.
8. Ratta Leghari.
9. Sirri Miani.
10. Mithankot.
11. Vang.
12. Nurpur.
13. Nowshera.
14. Kotla Andrim.
15. Mehrewala.
16. Rekh.
17. Bangala.
18. Bhagsar.
19. Mad Manthar.
20. Rojhan.
21. Kin.
22. Shahwali.
23. Kehalwali.
24. Kotla Sher Muhammad.
25. Abadpur.
26. Sheru.
27. Kandrala.

(*Notification No.* 172, *dated 20th January* 1883, *Punjab Gazette of 25th idem*).

In continuation of *Punjab Government Gazette* Notification, No. 206, dated 25th January 1882, the Hon'ble the Lieutenant Governor is pleased, under Section 15 of Act XVII, of 1878, to prescribe that the following additional tolls, commencing from 1882-83, shall be levied at the Sher Shah Ferry, on the river Chenab, Muzaffargarh district :—

(1). For a seat on the upper deck of the steamer *Beas*, during such time as it may continue to ply at the Ferry ... ... ... ... ... ... ... ... 4 annas.

(2). For a seat in the District Ferry Boat ... ... ... ... ... ... 8 annas.

(*Punjab Govt. Notification No.* 994, *dated 3rd May* 1882, *Punjab Gazette of 4th idem*).

In continuation of Notification No. 994, dated 1st May 1882, and in modification of Notification No. 1362, dated 5th April 1881, as amended by Notification No. 206, dated 25th January 1882, the Hon'ble the Lieutenant-Governor is pleased, under Section 15 of Act XVII of 1878,

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to prescribe that the following revised rates of toll shall be levied at the Sher Shah ferry, on the River Chenab, in the Muzaffargarh district :—

| | Steamer. | Ordinary Boat. |
|---|---|---|
| | Rs. A. P. | Rs. A. P. |
| On every 4-wheeled carriage ... ... ... ... ... | 3 0 0 | 2 0 0 |
| On every 2-wheeled carriage ... ... ... ... ... | 1 0 0 | 0 12 0 |
| On every ekka ... ... ... ... ... ... | 0 8 0 | 0 4 0 |
| On every bullock cart, with 4 oxen, laden, ... ... ... ... | 1 8 0 | 0 12 0 |
| On every bullock cart, with 4 oxen, unladen ... ... ... | 1 0 0 | 0 8 0 |
| On every bullock cart, with 2 oxen, laden, ... ... ... ... | 0 12 0 | 0 8 0 |
| On every bullock cart, with 2 oxen, unladen ... ... ... | 0 6 0 | 0 4 0 |
| On every buffalo or bullock laden ... ... ... ... ... | 0 2 0 | 0 1 0 |
| On every buffalo or bullock unladen ... ... ... ... | 0 1 0 | 0 0 6 |
| On every elephant ... ... ... ... ... | 1 8 0 | ... |
| On every camel, laden, ... ... ... ... ... | 0 6 0 | 0 4 0 |
| On every camel, unladen ... ... ... ... ... | 0 3 0 | 0 2 0 |
| On every camel, under 9 months ... .. ... ... ... | Free. | Free. |
| On every horse, laden or ridden ... ... ... ... ... | 0 3 0 | 0 2 0 |
| On every horse, unladen ... ... ... ... ... | 0 2 0 | 0 1 6 |
| On every tattoo or mule, laden or riden ... ... ... ... | 0 2 0 | 0 1 6 |
| On every tattoo or mule, unladen ... ... ... ... ... | 0 1 6 | 0 1 0 |
| On every ass, laden ... ... ... ... ... ... | 0 0 9 | 0 0 6 |
| On every ass, unladen ... ... ... ... ... ... | 0 0 6 | 0 0 3 |
| On every sheep, goat, or pig ... ... ... ... ... ... | 0 0 3 | 0 0 1 |
| On every pálki, with 8 bearers ... ... ... ... ... | 2 0 0 | 1 0 0 |
| On every pálki, with 6 bearers ... ... ... ... ... | 1 8 0 | 0 12 0 |
| On every palki, with 4 bearers ... ... ... ... ... | 1 0 0 | 0 8 0 |
| On every pálki, with 2 bearers ... ... ... ... ... | 0 8 0 | 0 4 0 |
| On foot passengers ... ... ... ... ... .. | 0 0 9 | 0 0 3 |

(*Punjab Government Notification, No. 993, dated 30th April* 1883, *Punjab Gazette of 3rd May*).

In modification of Punjab Government Notification, No. 1362, dated 5th April 1881, the Hon'ble the Lieutenant-Governor is pleased, under Section 15, Act XVII of 1878, to declare that the following rates of toll shall be levied on salt and coal crossing the Find Dadan Khan Ferry : –

Salt ... ... ... 6 pies per maund,
Coal ... ... ... 3 pies per maund,

and that all animals or vehicles laden with salt or coal, shall be exempted from toll, subject to the minimum prescribed for such animals and vehicles when unladen by the above quoted Notification.—(*Notification No 425, dated 3rd October* 1882, *Punjab Gazette of 5th idem*).

In modification of Punjab Government Notifications, No. 1362, dated 5th April 1881, and No. 206, dated 25th January 1882, the Lieutenant-Governor is pleased to prescribe under Section 15, Act XVII of 1878, that the rates of toll entered in the annexed schedule, shall be levied at the undermentioned ferries of the Dera Ismail Khan and Dera Ghazi Khan Districts.

Nothing in this Notification shall be held to affect the provisions of Notification No. 172, dated 20th January 1882.

*List of ferries in the Dera Ismail Khan District.*

1. Shinki.
2. Belot.
3. Jai.
4. Dalwala.
5. Kanjan.
6. Kahiri.
7. Sukhi.
8. Fatteh Khan.
9. Mahrel.
10. Dera Ismail Khan

*List of ferries in the Dera Ghazi Khan District.*

| No. | Name of ferry. | Major. | Minor. | No. | Name of ferry. | Major. | Minor. |
|---|---|---|---|---|---|---|---|
| 1 | Marjhangi ... ... | ... | Minor. | 16 | Kotla Andrun ... | ... | Minor. |
| 2 | Shahwala ... ... | ... | Do. | 17 | Mehrewala .. ... | — | Do. |
| 3 | Ghali ... ... | ... | Do. | 18 | Rekh ... ... | ... | Do. |
| 4 | Pirwala ... ... | ... | Do. | 19 | Bangala ... ... | ... | Do. |
| 5 | Bet Sawai ... ... | ... | Do. | 20 | Bhagsar ... ... | ... | Do. |
| 6 | Anokhar ... ... | ... | Do. | 21 | Mad Manthar ... | ... | Do. |
| 7 | Korrishi ... ... | Major. | ... | 22 | Rojhan ... ... | ... | Do. |
| 8 | Kinjar ... ... | Do. | ... | 23 | Kin ... ... ... | ... | Do. |
| 9 | Dhaniwala ... ... | ... | Minor. | 24 | Shahwali ... ... | ... | Do. |
| 10 | Ratta Leghari ... | ... | Do. | 25 | Kchalwali ... ... | ... | Do. |
| 11 | Siri Miani ... ... | ... | Do. | 26 | Kotla Sher Muhammad | ... | Do. |
| 12 | Mithankot ... ... | ... | Do. | 27 | Abadpur ... | ... | Do. |
| 13 | Vang ... ... | ... | Do. | 28 | Sheru ... | ... | Do. |
| 14 | Nurpur ... ... | .. | Do. | 29 | Kondrala ... | ... | Do. |
| 15 | Noshera ... ... | | D | | | | |

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| No. | | Minor and Major Ferries, including boat-bridge. | Special. Steamer. | Special. Mail Boat. |
|---|---|---|---|---|
| | | Rs. A. P. | R. A. P. | Rs. A. P. |
| 1 | On every four-wheeled carriage ... ... ... | 2 4 0 | 4 8 0 | ... |
| 2 | On every two-wheeled carriage... ... ... ... | 1 4 0 | 2 8 0 | ... |
| 3 | On every ekka ... ... .. ... ... ... | 0 8 0 | 1 0 0 | ... |
| 4 | On every hackery on springs ... ... ... ... | 0 6 0 | 0 12 0 | ... |
| 5 | On every cart and hackery not on springs, drawn by 8 bullocks, buffaloes, horses, ponies, asses or mules, if laden ... ... ... ... ... ... | 1 12 0 | 3 8 0 | ... |
| 6 | On do. do. do. do. if not laden | 0 12 0 | 1 8 0 | ... |
| 7 | On do. do. do. drawn by 6 do. if laden ... | 1 0 0 | 2 0 0 | ... |
| 8 | On do. do. do. do. if not laden | 0 10 0 | 1 4 0 | ... |
| 9 | On do. do. do. drawn by 4 do. if laden ... | 0 14 0 | 1 12 0 | ... |
| 10 | On do. do. do. do. if not laden | 0 10 0 | 1 4 0 | ... |
| 11 | On do. drawn by two bullocks, if laden... | 0 12 0 | 1 8 0 | ... |
| 12 | On do. do. do. do. if not laden | 0 8 0 | 1 0 0 | ... |
| 13 | Buffaloes or bullocks, per head, if laden ... ... | 0 3 0 | 0 6 0 | ... |
| 14 | Do. do do. if not laden | 0 1 6 | 0 3 0 | ... |
| 15 | On every elephant ... ... ... ... ... | 1 8 0 | ... | ... |
| 16 | On every camel, if laden ... ... ... ... ... | 0 8 0 | 1 0 0 | ... |
| 17 | On do. if not laden ... ... ... ... | 0 4 0 | 0 8 0 | ... |
| 17½ | On every young camel, 9 months and under ... ... | 0 2 0 | 0 4 0 | ... |
| 18 | On every horse, if laden or ridden ... ... ... | 0 3 0 | 0 6 0 | ... |
| 19 | On do. unladen or led ... ... ... ... | 0 1 6 | 0 3 0 | ... |
| 20 | On every tattoo or mule, if laden or ridden ... ... | 0 3 0 | 0 6 0 | ... |
| 21 | On do. unladen or led ... ... ... .. | 0 1 6 | 0 3 0 | ... |
| 22 | On every ass, laden or ridden ... ... ... ... | 0 2 0 | 0 4 0 | ... |
| 23 | On do. unladen or led ... ... ... ... | 0 1 0 | 0 2 0 | ... |
| 24 | On every sheep or goat or pig ... ... ... ... | 0 0 3 | 0 1 0 | ... |
| 25 | On every palanquin, dooly, palki, or tonjon, with 8 bearers ... ... ... .. ... ... ... | 1 0 0 | 2 0 0 | ... |
| 26 | Do do. do 6 do.... | 0 12 0 | 1 8 0 | ... |
| 27 | Do do. do 4 do.... | 0 8 0 | 1 0 0 | ... |
| 28 | Do do. do 2 do.... | 0 4 0 | 0 8 0 | ... |
| 29 | On every foot passenger ... ... ... ... ... | 0 0 6 | 0 2 0 | 0 8 0 |

This rate is to be levied all the year round. The rate is to be levied at all major and minor ferries, including bridges-of-boats, leased or under direct management.

The only special rates are for the steamer and the mail boat.—(*Panjab Government Notification No.* 612, *dated* 15*th March* 1883, *Punjab Gazette of* 22*nd idem. as amended by No.* 1956, *dated* 30*th August* 1883, *Punjab Gazette of same date, Part I, page* 497).

In partial modification of Notification No. 1362, dated the 5th April 1881, the Hon'ble the Lieutenant-Governor is pleased to fix the following rates of toll to be levied on the Shahdara Bridge-of-Boats in the Lahore District, on vehicles crossing and recrossing on the same day:—

| | Rs. A. P. |
|---|---|
| On every four-wheeled carriage | 1 0 0 |
| ,, two ,, ,, | 0 8 0 |
| ,, ekka | 0 2 0 |

(*No.* 644, *dated* 14*th April* 1888, *Punjab Gazette of* 19*th idem, Part I., page* 387).

*No.* 745.—In supersession of such part of Punjab Government Notification No. 612, dated 15th March 1883, and No. 1956, dated 30th August 1883, as may be affected hereby, His Honor the Lieutenant-Governor is pleased to prescribe, under Section 15 of Act XVII of 1878, that the rates of toll entered in the annexed schedule shall be levied at the undermentioned ferries of the Dera Ismail Khan and Dera Ghází Khan Districts with effect from the 1st May 1888:—

*Ferries in the Dera Ismail Khan District,*

1. Shinki.
2. Bilot.
3. Jái.
4. Dalwàla.
5. Kanjan.

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6. Dera Ismail Khan Ferry and Bridge-of-Boats.
7. Kahiri.
8. Baksha (also called Sukhi).
9. Fatteh Khan.
10. Mahral.

*Ferries in the Dera Ghazi Khan District.*

1. Morjhangi.
2. Shahwála.
3. Ghali.
4. Piwala.
5. Bet Sarwai.
6. Anokhar.
7. Koreshi Ferry and Bridge-of-Boats.

*Schedule.*

| | | Ferries and Bridges. Rs. | A. | P. | Steamer. Rs. | A. | P. |
|---|---|---|---|---|---|---|---|
| (1). | Four-wheeled carriage ... ... ... ... ... ... | 2 | 0 | 0 | 4 | 0 | 0 |
| (2). | Two-wheeled carriage ... ... ... ... ... ... | 1 | 0 | 0 | 2 | 0 | 0 |
| (3). | Ekka or two-wheeled country cart, drawn by one horse, pony, mule or other animal ... ... ... ... .. | 0 | 6 | 0 | 0 | 12 | 0 |
| (4). | Country cart or hackery, drawn by more than six bullocks or other animals ... ... ... ... ... ... ... | 0 | 12 | 0 | 1 | 8 | 0 |
| (5). | Country cart or hackery, drawn by 4, 5, or 6 bullocks or other animals ... ... ... ... ... ... ... | 0 | 10 | 0 | 1 | 4 | 0 |
| (6). | Country cart or hackery drawn by 2 or 3 bullocks or other animals | 0 | 8 | 0 | 1 | 0 | 0 |
| (7). | Buffaloes or bullocks, per head ... ... ... ... ... | 0 | 1 | 6 | 0 | 3 | 0 |
| (8). | Elephant ... ... ... ... ... ... ... ... | 1 | 8 | 0 | ... | | |
| (9). | Camel ... ... ... ... ... ... ... ... .. | 0 | 4 | 0 | 0 | 8 | 0 |
| (10). | Young camel, nine months old and under ... ... ... | 0 | 2 | 0 | 0 | 4 | 0 |
| (11). | Horse, pony or mule ... ... ... ... ... ... ... | 0 | 1 | 6 | 0 | 3 | 0 |
| (12). | Donkey ... ... ... ... ... ... ... ... | 0 | 1 | 0 | 0 | 2 | 0 |
| (13). | Sheep, goat or pig ... ... ... ... ... ... ... | 0 | 0 | 3 | 0 | 1 | 0 |
| (14). | Dooly with bearers ... ... ... ... ... ... ... | 0 | 8 | 0 | 1 | 0 | 0 |
| (15). | Foot passengers ... ... ... ... ... ... ... | 0 | 0 | 6 | 0 | 2 | 0 |

NOTE.—Passengers carried by Mail boat are charged 8 annas.

The authorized load of a camel is 5 maunds; and of a cart with two bullocks, 10 maunds.

The charge for laden and unladen animals and carts is the same.

*No.* 746.—Under Section 15 of Act XVII of 1878, His Honor the Lieutenant-Governor is pleased to prescribe that at all ferries of the Dera Ismail Khan and Dera Ghazi Khan Districts merchandise conveyed without carriage, shall be liable to tolls at the following rates with effect from the 1st May 1888 :

If conveyed by ferry or bridge-of-boats, to a toll of 9 pies per maund.

If conveyed by steamer, to a toll of 1 anna 6 pies per maund.

(*Nos.* 745, 746, *dated* 1*st May* 1888, *Punjab Gazette of* 3*rd idem*, *Part I*, *p.* 404).

(*c*).— Under the provisions of Section 15 of Act XVII. of 1878, the Hon'ble the Lieutenant-Governor is pleased to declare the following exemptions from tolls levied at public ferries :—

1*st*.—The servants and baggage of officers of Government travelling upon Government service.

2*nd*.—The grass-cutters and ponies attached to regiments of cavalry, while employed in bringing grass for their regiments.

3*rd*.—Families of European soldiers, and the carts in which they are conveyed.

4*th*.—*Bonâ fide* camp-followers, marching with a regiment or a detachment of troops.

5*th*.—The camp of His Honor the Lieutenant-Governor.

6*th*.—Persons crossing and re-crossing a river in one and the same day, will be liable to pay oe toll only.

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*Proviso.*—Persons exempt from payment of tolls are bound to pay the boatmen a fair remuneration, at rates which may be fixed by the Magistrate of the District, for assistance, if given, in lading and unlading baggage or merchandize of any description.—(*Punjab Government Notification, No.* 1363, *dated 5th April* 1881, *Punjab Gazette of 14th idem*).

7th.—Return animals and vehicles recrossing a river within 24 hours of crossing it, if unladen at the time of recrossing, or only laden with "return empties."—(*Notification No.* 426, *dated 3rd October* .1882, *Punjab Gazette of 5th idem*).

(*d*).—In modification of Notification No. 1362, dated 5th April 1881, as amended by Notification No. 206, dated 25th January 1882, the Lieutenant-Governor is pleased to prescribe under Section 15 of Act XVII of 1878, that during the currency of existing leases, the rates of tolls entered in the agreements under which leases are held, shall be levied at the public ferries named below :—(List omitted).—(*Punjab Government Notification No.* 207, *dated 25th January* 1882, *Punjab Gazette of 2nd February*).

(*e*). Special rates of tolls to be levied at the Attock ferry are prescribed by Punjab Government Notification No. 59½ S., dated 17th June 1881—(*Punjab Gazette of 23rd idem*).

(*f*). Under the provisions of Section 15 of Act XVII of 1878, the Hon'ble the Lieutenant-Governor is pleased to exempt the villagers of Pind Ratwal and their cattle from the payment of tolls when crossing the Pind Ratwal Ferry.—(*Punjab Government Notification No.* 2089, *dated 25th October* 1882, *Punjab Gazette of 26th idem*).

(*g*). Draft rules under Section 15 of the Act for the regulation of Public Ferries and Bridges-of-Boats, were published in the *Punjab Gazette* of the 17th April 1884, Part I., page 474, in connection with the Resolution of the Punjab Government, No. 941, dated 3rd April 1884, on the subject of the transfer of the management of such ferries to local bodies.

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## ACT No. I of 1879.

(*Passed on the* 17*th January* 1879).

An Act to consolidate and amend the law relating to Stamps.

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### CHAPTER I.

#### PRELIMINARY.

Short title.

**1.** This Act may be called "The Indian Stamp Act, 1879:"

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force on the first day of April 1879.

Repeal of enactments.

**2.** On and after that day, the Acts specified in the third schedule shall be repealed to the extent specified in the third column of the same schedule. But all rules made under the General Stamp Act, 1869, and then in force, shall, so far as they are consistent with this Act, be deemed to have been made hereunder. And all references made to the General Stamp Act, 1869, in enactments passed subsequently thereto, shall be deemed to be made to this Act.

Interpretation-clause.

**3.** In this Act, unless there is something repugnant in the subject or context,—

(1). "Banker" includes a bank and any person acting as a banker;

(2). "Bill of exchange" includes a hundi:

(3). "Bill of lading" means any instrument signed by the owner of a vessel or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver the same at a place and to a person therein mentioned or indicated:

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(4). "Bond" means—

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(b) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(c) any instrument so attested whereby a person obliges himself to deliver grain or other agricultural produce to another:

(5). "Chargeable" means, as applied to an instrument executed or first executed after this Act comes into force, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed, or, where several persons executed the instrument at different times, first executed:

(6). "Cheque" means a bill of exchange drawn on a banker and payable on demand:

(7). "Chief Controlling Revenue-Authority" means, in the Presidency of Fort St. George, and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces, the Board of Revenue: in the presidency of Bombay, outside Sind, and the limits of the town of Bombay, a Revenue Commissioner: in Sind, the Commissioner: in the Punjab, and Burma, the Financial Commissioner; and elsewhere, the Local Government, or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office:

NOTE.—As amended by Act XVIII of 1888.

(8). "Collector" means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively, and, without those limits, the Collector of a District, and includes a Deputy Commissioner and any officer whom the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office:

(9). "Conveyance" means any instrument by which property (whether moveable or immoveable) is transferred on sale:

(10). "Duly stamped," as applied to an instrument, means stamped, or written upon paper bearing an impressed stamp, in accordance with the law in force in British India when such instrument was executed or first executed:

(11). "Instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-Authority:

(12). "Lease" means a lease of immoveable property and includes also

(a) a patta,

(b) a kabuliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy, or pay, or deliver rent for, immoveable property,

(c) any instrument by which tolls of any description are let, and

(d) any writing on an application for a lease intended to signify that the application is granted:

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(13). "Mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to or in favour of another, a right over specified property:

(14). "Paper" includes vellum, parchment, or any other material on which an instrument may be written :

(15). "Policy of insurance" means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event ;

It includes a life-policy, and includes also any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire-insurance in respect of which, and of the previous renewal whereof (if any), there has not already been paid the stamp-duty, which would have been chargeable if the policy had originally been granted for a longer term than six months :

NOTE.—The above clause is as enacted by Act I of 1888.

(16). "Power-of-attorney" means any instrument (not chargeable with a fee under the law relating to Court-fees for the time being in force) empowering a specified person to act in the stead of the person executing it :

(17). "Receipt" means any note, memorandum, writing, or advertisement, whereby any money or any bill of exchange, cheque, or promissory note is acknowledged to have been received, or whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or whereby any debt or demand, or part of a debt or demand, is acknowledged to have been satisfied or discharged, or which signifies or imports any such acknowledgment, whether the same is or is not signed with the name of any person :

(18). "Schedule" means a schedule to this Act annexed :

(19). "Settlement" means any non-testamentary disposition in writing, of moveable or immoveable property, made—

(*a*) in consideration of marriage,

(*b*) for the purpose of distributing property of the settler among his family, or those for whom he desires to provide, or

(*c*) for any religious or charitable purpose :

It includes an agreement in writing to make such a disposition :

(20). "Vessel" means anything made for the conveyance by water of human beings or property :

(21). "Written" and "writing" include every mode in which words or figures can be expressed upon paper.

Schedules to be read as part of Act.

4. The schedules and everything therein contained, shall be read and construed as part of this Act.

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## CHAPTER II.

### STAMP-DUTIES.

*A.—Of the Liability of Instruments to duty.*

Instruments chargeable with duty.

5. Subject to the exemptions contained in the second schedule, the following instruments shall be chargeable with duty of the amount indicated in the first schedule as the proper duty therefor respectively, that is to say—

(*a*) every instrument mentioned in the first schedule, and which, not having been previously executed by any person, is executed in British India on or after the first day of April 1879;

(*b*) every bill of exchange, cheque, or promissory note drawn or made out of British India on or after that day, and accepted or paid, or presented for acceptance or payment, or endorsed, transferred, or otherwise negotiated in British India; and

(*c*) every instrument (other than a bill of exchange, cheque, or promissory note) mentioned in the first schedule, which, not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done, or to be done, in British India, and is received in British India.

Several instruments used in single transactions.

6. Where, in the case of any sale, lease, mortgage, or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed for the conveyance, lease, mortgage, or settlement in the first schedule, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

The parties may determine for themselves which of the instruments so employed shall, for the purposes of this section, be deemed to be the principal instrument.

Instruments relating to several distinct matters.

7. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments coming within several descriptions in Schedule I.

Subject to the provisions of the first clause of this section, an instrument so framed as to come within two on more of the descriptions in the first schedule shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties; but nothing herein contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

Power to reduce or remit rates of stamp-duty.

8. The Governor-General in Council may, by order published in the *Gazette of India*—

(*a*) reduce or remit, whether prospectively or retrospectively, in the whole or any part of British India, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favor of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(*b*) cancel or vary such order to the extent of the powers hereby given.

**NOTE.—For remissions under this section, see Note (*e*) at end of this Act.**

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*B.—Of Stamps and the mode of using them.*

Duties how to be paid.

9. Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable, shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(*a*) according to the provisions herein contained, or

(*b*) when no such provision is applicable thereto—as the Governor-General in Council may by rule direct.

The rules made under this section may, among other matters, regulate—

(1) in the case of each kind of instrument—the description of stamps which may be used,

(2) in the case of instruments stamped with impressed stamps—the number of stamps which may be used,

(3) in the case of hundis—the size of the paper on which they are written.

NOTES.—(*a*). For Rules under this section, and SS. 15, 17, 32, 51, and 56, see Note (*a*) at end of Act.

(*b*). In exercise of the powers conferredby Section 9 of "The Indian Stamp Act, 1879,' the Governor-General in Council is pleased to direct the use of adhesive stamps for bills of exchange, payable otherwise than on demand, and drawn in sets, when the amount of stamp duty does not exceed one anna.—(*Government of India Notification No.* 479, *dated* 8*th May* 1880).

(*c*). Whereas copies or extracts, certified to be true copies or extracts of baptismal, marriage, and burial certificates granted by Ministers, and Marriage Registrars are generally furnished on printed forms for which impressed sheets of stamped paper cannot be used without inconvenience; Therefore, in exercise of the powers conferred by Section 9 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to make the following rule :—

The stamp duty payable under Article 22 of Schedule I, to the Indian Stamp Act, 1879, on copies or extracts certified to be true copies or extracts of baptismal, marriage, and burial certificates, shall be denoted by means of adhesive Court-fee lables.—(*Government of India Notification No.* 2036, *dated* 30*th June* 1882).

(*d*) In exercise of the powers conferred by Section 9 of the Indian Stamp Act, I of 1879, the Governor-General in Council is pleased to make the following rule :—

The stamp duty payable under Article 22 (*a*) of Schedule I to the Indian Stamp Act, I of 1879, on certified copies granted under the provisions of the Births, Deaths and Marriages Registration Act, IV of 1886, may be paid by means of adhesive Court-fee labels. (*No.* 6717, *dated 21st December* 1888 *Gazette of India of* 22*nd idem, Pt. I, p.* 584)

Use of adhesive stamps.

10. The following instruments may be stamped with adhesive stamps, namely :—

(*a*) instruments chargeable with the duty of one anna, except parts of bills of exchange payable otherwise than on demand and drawn in sets;

(*b*) bills of exchange, cheques, and promissory notes drawn or made out of British India;

(*c*) entry as an advocate, vakil, or attorney on the roll of a High Court;

(*d*) notorial acts; and

(*e*) transfers by endorsement of shares of public companies and associations.

Cancellation of adhesive stamps.

11. Whoever affixes any adhesive stamp to any instrument chargeable with duty, and which has been executed by any person, shall, when affixing such stamp, cancel the same, so that it cannot be used again;

and whoever executes any instrumenton any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same, so that it cannot be used again.

Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again shall, so far as such stamp is concerned, be deemed to be unstamped.

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How instruments stamped with impressed stamps are to be written.

12. Every instrument written upon paper stamped with an impressed stamp, shall be written in such manner, that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp.

13. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written; provided that nothing in this section shall prevent any endorsement, which is duly stamped, or is not chargeable with duty, being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instrument written contrary to Section 12 or 13, deemed unstamped.

14. Every instrument written in contravention of section twelve or thirteen shall be deemed to be unstamped.

Denoting duty.

15. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application be made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument in such manner as the Governor-General in Council may by rule prescribe.

*C.—Of the Time of stamping Instruments.*

Instruments executed in British India.

16. All instruments chargeable with duty, and executed by any person in British India, shall be stamped before or at the time of execution.

Instruments other than bills, cheques, and notes executed out of British India.

17. Every instrument chargeable with duty, executed only out of British India, and not being a bill of exchange, cheque, or promissory note, may be stamped within three months after it has been first received in British India; or, where such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, and he shall stamp the same, in such manner as the Governor-General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills, cheques and notes drawn out of British India.

18. The first holder in British India of any bill of exchange, cheque, or promissory note drawn or made out of British India shall, before he presents the same for acceptance or payment, or endorses, transfers, or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same:

Provided that if, at the time any such bill, cheque, or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section eleven, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled. But nothing contained in this proviso, shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

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*D.—Of Valuations for Duty.*

Conversion of amount expressed in certain currencies.

19. Where an instrument is chargeable with *ad valorem* duty in respect of an amount expressed in pounds sterling, pounds currency, francs or dollars, such duty shall be calculated on the value of such money in the currency of British India according to the following scale :—

One pound sterling or pound currency is equivalent to ten rupees:

One hundred francs are equivalent to forty rupees :

One Mexican or China dollar is equivalent to two rupees four annas.

Conversion of amount expressed in other foreign currencies.

20. Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any other foreign or colonial currency, such duty shall be calculated on the value of such money in the currency of British India, according to the current rate of exchange on the day of the date of the instrument.

Stock and marketable securities how to be valued.

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable security, such duty shall be calculated on the value of such stock or security according to the average price thereof on the day of the date of the instrument.

Effect of statement of rate of exchange or average price.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Instruments reserving interest.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

How transfer, in consideration of debt, or subject to future payment, &c., to be charged.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty.

Valuation in case of annuity, &c.

25. Where an instrument is executed to secure the payment of an annuity, or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument, or the consideration for such conveyance (as the case may be), shall, for the purposes of this Act, be deemed to be—

(*a*) where the sum is payable for a definite period, so that the total amount to be paid can be previously ascertained—such total amount ;

(*b*) where the sum is payable in perpetuity, or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years next after the date of such instrument or conveyance ; and

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(c) where the sum is payable for an indefinite time, terminable with any life in being at the date of such instrument or conveyance—the total amount which will or may be payable as aforesaid during the period of twelve years next after the date of such instrument or conveyance.

Stamps where value of subject-matter is indeterminate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before this Act comes into force) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient.

Facts affecting duty to be set forth in instrument.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Direction as to duty in case of certain conveyances.

28. (a) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(b) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in part by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(c) Where a person having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(d) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration, and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last mentioned conveyance shall in no case be less than one rupee.

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(e) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller; or where such duty would exceed five rupees, with a duty of five rupees.

*E.—Duty by whom payable.*

Duties by whom payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

(a) in the case of any instrument described in numbers 2, 11, 13, 14, 15, 24, 28, 29, 30, 44, 53, 54, 55, 57, and 60 (a) and (b) of the first schedule —by the person drawing, making, or executing such instrument:

(b) in the case of a policy of insurance—by the insured:

(c) in the case of a conveyance—by the grantee: in the case of a lease or agreement to lease—by the lessee or intended lessee:

(d) in the case of a counterpart of a lease—by the lessor:

(e) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the property comprised therein, or when the partition is made in execution of an order passed by a Revenue Authority, in such proportion as such Authority directs:

(f) in the case of an instrument of exchange* —by the parties in equal shares; and

(g) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates.

## CHAPTER III.

### Adjudication as to Stamps.

Adjudication as to proper stamp.

30. When any instrument, whether executed or not, and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees, and not less then eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable:

Collector may call for abstract and evidence.

and may, for that purpose, require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Proviso.

Provided that no evidence furnished in persuance of this section shall be used against any person in any civil proceeding, except in an inquiry as to the duty with which the instrument to which it relates is chargeable; and every person by whom any

* See Note (e), (40), at the end of the Act.

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such evidence is furnished shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by Collector.

31. When an instrument brought to the Collector under section thirty is in his opinion one of a description chargeable with duty, and

(a) the Collector determines that it is already fully stamped, or

(b) the duty determined by the Collector under section thirty, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

When such instrument is in his opinion not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped, or not chargeable with duty, as the case may be; and if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Nothing in this section shall authorise the Collector to endorse—

any instrument executed or first executed in British India and brought to him after the expiration of one month from the date of its execution or first execution (as the case may be);

any instrument executed or first executed out of British India, and brought to him after the expiration of three months after it has been first received in British India; or

any instrument chargeable with the duty of one anna, or any bill of exchange or promissory note, when brought to him after the drawing or execution thereof on paper not duly stamped.

Payment of fees under Secton 30 how made

32. Every payment of a fee under section thirty shall be made in stamps, or cash, as the Governor-General in Council may by rule direct.

## CHAPTER IV.

### INSTRUMENTS NOT DULY STAMPED.

Examination and impounding of instruments.

33. Every person having by law or consent of parties authority to receive evidence, and

every person in charge of a public office, except an officer of police,

before whom any instrument chargeable, in his opinion, with duty is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

For that purpose every such person shall examine every instrument so chargeable, and so produced or coming before him, in order to ascertian whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed:

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Provided that nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound any instrument coming before him in the course of any proceeding other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates' Act:

Provided also that, in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

The Local Government may, from time to time, in cases of doubt, determine who shall be deemed to be, for the purpose of this section, persons in charge of public offices.

Instruments not duly stamped inadmissible in evidence, &c.

**34.** No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered, or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

Proviso.

Provided that—

Instruments admissible on payment of duty and penalty,

*1st,* any such instrument, not being an instrument chargeable with a duty of one anna only, or a bill of exchange, or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or (in the case of an instrument insufficiently stamped) of the amount required to make up such duty, together with a penalty of five rupees, or when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

and in certain criminal proceedings.

*2nd,* nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court other than a proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates' Act;

Admission of instrument not to be questioned.

*3rd,* when an instrument has been admitted in evidence, such admission shall not, except as provided in section fifty, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

NOTE.—See Judicial Circular No. XVII.

Instruments impounded how dealt with.

**35.** When the person impounding an instrument under section thirty-three has, by law or consent of parties, authority to receive evidence, and admits such instrument in evidence upon payment of a penalty as provided by section thirty-four, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of the duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

In every other case, the person so impounding an instrument shall send it in original to the Collector.

Collector's power to refund penalty paid under Section 35, 1st para.

**36.** When a copy of an instrument is sent to a Collector under the first paragraph of section thirty-five, he may, if he thinks fit, upon application made to him in this behalf, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument, or

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when such instrument has been impounded on, because it has been written in contravention of section twelve, or sect eq thirteen, he may refund the whole penalty so paid. the

Collector's power to stamp instruments impounded.

37. When the Collector impounds any instrument e, or three, or receives any instrumen ction thirty- the second clause of section him under adopt the following procedure :—

(*a*) If he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable (as the case may be), and shall upon application made to him in this behalf, deliver such instrument to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct.

(*b*) If the Collector is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or if ten times the amount of the proper duty or of the deficient portion thereof exceeds five rupees, then such penalty, not less that five rupees and not more than ten times the amount of such duty or portion, as he thinks fit :

Provided that, when such instrument has been impounded only because it has been written in contravention of section twelve or section thirteen the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

Every certificate under clause (*a*) of this section shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

Nothing in this section applies to an instrument chargeable with a duty of one anna only, or to a bill of exchange or promissory note.

Instruments unduly stamped by accident.

38. If any instrument chargeable with duty and which is not duly stamped is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped, and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake, or urgent necessity, he may, instead of proceeding under sections thirty-three and thirty-seven, receive such amount and proceed as next hereinafter prescribed.

Nothing in this section applies to an instrument chargeable with a duty of one anna only, or to a bill of exchange or promissory note.

Endorsement of instrument, on which duty has been paid under Section 34, 37 or 38.

39. When the duty and penalty (if any) leviable in respect of any instrument have been paid under section thirty-four, section thirty-seven, or section thirty-eight, the person admitting such instrument in evidence, or the Collector (as the case may be), shall certify by endorsement thereon, that the proper duty, or (as the case may be) the proper duty and penalty (stating the amount of each), have been levied in respect thereof, and the name and residence of the person paying them.

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Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that no instrument which has been admitted in evidence upon payment of duty and a penalty under section thirty-four shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate:

Provided also that nothing in this section shall affect the Code of Civil Procedure, Section 144, clause 3.

NOTE.—See Act VII of 1870, Section 35, Note (*x*).

Prosecution for offence against stamp-law.

**40.** The payment of a penalty under this chapter in respect of an instrument shall not bar the prosecution of any person who appears to have committed an offence against the stamp-law in respect of such instrument:

Proviso.

But no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

Person paying duty or penalty may recover same in certain cases.

**41.** When any duty or penalty has been paid, under section thirty-four, section thirty-seven, or section thirty-eight, by any person in respect of an instrument, and by agreement, or under the provisions of section twenty-nine or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid; and for the purpose of such recovery any certificate granted in respect of such instrument under section thirty-nine shall be conclusive evidence of the matters therein certified.

Remission of penalty paid under Section 34 or 37.

**42.** When any penalty is paid under section thirty-four or thirty-seven, the Chief Controlling Revenue-Authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly on in part.

Non-liability for loss of instruments sent under Section 35.

**43.** If any instrument sent to a Collector under the second paragraph of section thirty-five be lost, destroyed, or damaged during transmission, the person sending the same shall not be liable for such loss, destruction, or damage.

Copy may be made of instruments so sent.

When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the expense of such first mentioned person, and authenticated by the person impounding such instrument.

Powe of payee to stamp bills, notes, and cheques received by him unstamped.

**44.** When any bill of exchange or promissory note chargeable with the duty of one anna, or any cheque, is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive

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stamp, and upon cancelling the same in manner hereinbefore provided may pay the sum payable upon such bill, note, or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note, or cheque shall, so far as respects the duty, be deemed good and valid.

But nothing herein contained shall relieve any person from any penalty he may have incurred in relation to such bill, note, or cheque.

## CHAPTER V.

### Reference and Revision.

Procedure where Collector feels doubt as to duty chargeable.

45. If any Collector acting under section thirty, section thirty-seven or section thirty-eight, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the Chief Controlling Revenue-Authority, and such Authority shall consider the case and send a copy of its decision to the Collector, and he shall proceed to assess and charge the duty (if any) in conformity with such decision.

Reference by Revenue Authority to High Court.

46. The Chief Controlling Revenue-Authority may state any case referred to it under section forty-five or otherwise coming to its notice, and refer such case with its own opinion thereon, if the case arises in the territories for the time being administered by the Governor of Fort Saint George in Council or the Governor of Bombay in Council—to the High Court of Judicature at Madras or Bombay as the case may be:

if it arises in the North-Western Provinces or Oudh—to the High Court of Judicature for the North-Western Provinces:

if it arises in the territories for the time being administered by the Lieutenant-Governor of the Punjab—to the Chief Court of the Punjab:

if it arises in the Central Provinces—to the High Court of Judicature at Bombay;

and if it arises in any other part of British India—to the High Court of Judicature at Fort William.

Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

Power of Court to call for further particulars.

47. If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-Authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

Procedure in disposing of reference.

48. The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby and shall deliver its judgment thereon, containing the grounds on which such decision is founded: and it shall send to the Revenue-Authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue-Authority shall, on receiving such copy, dispose of the case conformably to such judgment.

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Reference by other Court to High Court.

49. If any Court other than a Court mentioned in section forty-six feels doubt as to the amount of duty to be paid in respect of any instrument under the first proviso to section thirty-four, the Judge may draw up a statement of the case and refer it with his own opinion thereon for the decision of the High Court or Chief Court to which, if he were the Chief Controlling Revenue Authority, he would under section forty-six refer the same, and such Court shall deal with the case as if it had been referred under section forty-six, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Judge making the reference, who shall, on receiving such copy, dispose of the case comformably to such judgment.

References made under this section, when made by a Court subordinate to a District Court, shall be made through the District Court, and when made by any subordinate Revenue Court shall be made through the Court immediately superior.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

50. When any Court in the exercise of civil or revenue jurisdiction makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section thirty-four, the Court to which appeals lie from, or references are made by, such first mentioned Court, may, of its own motion or on the application of the Collector, take such order into consideration : and if it is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section thirty-four, or without the payment of a higher duty and penalty than those paid, may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is to produce the same, and may impound the same when produced.

When any declaration has been recorded under this section, the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument; and thereupon the Collector may, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section thirty-nine, or in section forty, prosecute any person for any offence against the stamp-law which the Collector considers him to have committed in respect of such instrument :

Provided that no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section thirty-four, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty:

Provided also that, except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section thirty-nine.

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## CHAPTER VI.

### ALLOWANCES FOR SPOILED STAMPS AND STAMPS NO LONGER REQUIRED.

Allowance for spoiled stamps.

51. Subject to such rules as may be made by the Governor-General in Council as to the evidence which the Collector may require, allowance shall be made by the Collector for impressed stamps spoiled in the cases hereinafter mentioned, namely :—

(*a*) The stamp on any paper inadvertently and undesignedly spoiled, obliterated, or by any means rendered unfit for the purpose intended, before any instrument written thereon is executed by any person :

(*b*) The stamp used or intended to be used for any bill of exchange, cheque, or promissory note, signed by or on behalf of the drawer or intended drawer, but not delivered out of his hands to the payee or intended payee, or any person on his behalf, or deposited with any person as a security for the payment of money, or in any way negotiated, issued, or put in circulation, or made use of in any other manner, and which, being a bill of exchange or cheque, has not been accepted by the drawee, and provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange or cheque to be afterwards written thereon :

(*c*) The stamp used or intended to be used for any bill of exchange, cheque, or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance, or accepted or endorsed, or, being a promissory note, may have been delivered to the payee, provided that another completed and duly stamped bill of exchange, cheque, or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque, or note :

(*d*) The stamp used for any of the following instruments, that is to say—

(1) an instrument executed by any party thereto, but afterwards found by a competent Court to be absolutely void in law from the beginning :

(2) an instrument executed by any person, but afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended :

(3) an instrument executed by any party thereto, but which, by reason of the death of any person, by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, or to advance any money intended to be thereby secured, cannot be completed so as to effect the intended transaction in the form proposed :

(4) an instrument executed by any party thereto which, for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :

(5) an instrument executed by any party thereto, which, by reason of the refusal of any person to act under the same, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose:

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(6) an instrument executed by any party thereto, which becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument duly stamped:

(7) an instrument executed by any party thereto, which is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that in the case of an executed instrument—

(*a*) such instrument is given up to be cancelled:

(*b*) the application for relief is made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, except where, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, and in that case within six months after the date or execution of the substituted instrument, and except where the spoiled instrument has been sent out of British India, and in that case within six months after it has been received back in British India:

Provided also that, in the case of stamped paper not having any executed instrument written thereon, the application for relief is made within six months after the stamp has been spoiled as aforesaid.

Allowance for misused stamps.

**52.** When any person has inadvertently used, for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty, or when any stamp used for an instrument has been inadvertently rendered useless under section fourteen, owing to such instrument having been written in contravention of the provisions of section twelve, the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

Allowance under Sections 51 and 52 how to be made.

**53.** In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof (*a*) other stamps of the same description and value, or (*b*), if required, and he thinks fit, stamps of any other description to the same amount in value, or (*c*), at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

Allowance for stamps not required for use.

**54.** When any person is possessed of a stamp which has not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction that it was purchased by such person with a *bonâ fide* intention to use it, and that he has paid the full price thereof, and

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that it was so purchased within the period of six months next preceding the date on which it is so delivered.

NOTE.—RESOLUTION. Under Chapter VI of the Indian Stamp Act, 1879, provision is made for the renewal or refund of the value of stamps spoiled or rendered useless, or which for any reason are not required by the possessor, on the condition that application for such renewal or refund shall be made within six months from the date on which the stamp was spoiled, or on which it was rendered useless, or on which it was purchased.

Instances have occurred in which this limit has operated as a serious hardship. Without any fraudulent motive, holders of spoiled or useless stamps are sometimes unavoidably prevented from applying for refund or renewal within the prescribed period, and so cannot, under the provisions of the Act, obtain any relief. In such cases an order of the Government of India is now necessary before refund can be sanctioned. For the future the Governor-General in Council authorises Local Governments to allow refunds or renewals of spoiled or useless stamps, or the repurchase of stamps not required, provided that application for renewal or refund be made within one year from the date of purchase of the stamp, or one year from the date on which the stamp has been spoilt or rendered useless.—(*Government of India Resolution No.* 125, *dated* 14*th January* 1881.—*Punjab Government Notification No.* 243, *dated* 24*th January* 1881, *Punjab Gazette of* 27*th idem*).

## CHAPTER VII.

### SUPPLEMENTAL PROVISIONS.

Power to make rules relating to sale of stamps.

55. The Local Government, subject to the control of the Governor-General in Council, may make rules consistent herewith for regulating the supply and sale of stamps and stamped papers, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons.

NOTE.—For rules under this section see Notes (*b*), (*c*) and (*d*), at the end of the Act.

Power to make rules generally to carry out Act.

56. The Governor-General in Council may make rules consistent herewith to carry out generally the purposes of this Act.

Certain powers exercise-able from time to time.

57. All powers to make appointments, rules, and orders conferred by this Act may be exercised from time to time as occasion requires.

Publication of rules.

All rules made under this Act, other than rules made under section fifty-five, shall be published in the *Gazette of India*, and all rules made under section fifty-five shall be published in the local Gazette. All rules published as required by this section shall, upon such publication, have the force of law.

Obligation to give receipt in certain cases.

58. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque, or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note, or property, give a duly stamped receipt for the same.

Saving as to Court-fees.

59. Nothing herein contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to Court-fees.

Act to be translated, indexed, and sold cheaply.

60. Every Local Government shall cause this Act to be carefully translated into the principal vernacular languages of the territories administered by it. A full alphabetical index shall be added to every such translation, and the translation and index shall be printed and sold to the public at a price not exceeding four annas per copy.

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## CHAPTER VII.

### Criminal Offences and Procedure.

Penalty for executing, &c., instrument not duly stamped.

**61.** Any person drawing, making, issuing, endorsing, or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying, or receiving payment of, or in any manner negotiating any bill of exchange, cheque, or promissory note without the same being duly stamped,

any person executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped, and

any person voting or attempting to vote under any proxy not duly stamped,

shall for every such offence be punished with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under section thirty-four, section thirty-seven, or section fifty, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument, upon the person who paid such penalty.

Penalty for failure to cancel adhesive stamp.

**62.** Any person required by section eleven to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punished with fine which may extend to one hundred rupees.

Penalty for omission to comply with provisions of Section 27.

**63.** Any person who, with intent to defraud the Government of any duty,

(*a*) executes any instrument in which all the facts and circumstances required by section twenty-seven to be set forth in such instrument are not fully and truly set forth, or

(*b*) being employed or concerned in or about the preparation of any instrument, neglects or omits, fully and truly to set forth therein all such facts and circumstances,

shall be punished with fine which may extend to five thousand rupees.

Penalty for refusal to give receipt, and for devices to evade duty on receipts.

**64.** Any person who, being required under section fifty-eight to give a receipt, refuses or neglects to give the same, or who, with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered, shall be punished with fine which may extend to one hundred rupees.

Penalty for not making out policy, or making, &c., any policy not duly stamped.

**65.** Every person who—

(*a*) receives, or takes credit for, any premium or consideration for any contract of insurance, and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance ; or

(*b*) makes, executes, or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account any money upon, or in respect of, any such policy,

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shall be punished with fine which may extend to two hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

**66.** Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punished with fine which may extend to one thousand rupees.

Penalty for post-dating bills, &c.; for other devices to defraud the revenue.

**67.** Whoever, with intent to defraud the Government of duty, draws, makes, or issues any bill of exchange or promissory note, bearing a date subsequent to that on which such bill or note is actually drawn or made, and whoever, knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays, or receives payment of, such bill or note, or in any manner negotiates the same,

and whoever, with the like intent, practises or is concerned in any act, contrivance, or device not specially provided for by this Act or any other law for the time being in force,

shall be punished with fine which may extend to one thousand rupees.

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

**68.** Any person appointed to sell stamps who disobeys any rule made under section fifty-five, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Institution and conduct of prosecutions.

**69.** No prosecution in respect of any offence punishable under this Act, or the General Stamp Act, 1869, or any Act thereby repealed, shall be instituted without the sanction of the Collector or such other officer as the Local Government generally, or the Collector specially, authorizes in that behalf.

The Chief Controlling Revenue-Authority, or any officer authorized by it in this behalf, may stay any such prosecution or compound any such offence.

Jurisdiction of Magistrates.

**70.** No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Place of trial.

**71.** Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found, as well as in any district or presidency-town in which such offence might be tried under the law relating to criminal procedure for the time being in force.

Operation of other laws not barred.

**72.** Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act, or the rules made under it :

Provided that no person shall be punished twice for the same offence.

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## SCHEDULE I.

### STAMP-DUTY ON INSTRUMENTS. (*See Section* 5.)

| DESCRIPTION OF INSTRUMENT. | PROPER STAMP-DUTY. |
|---|---|
| 1. ACKNOWLEDGMENT of a debt exceeding twenty rupees in amount or value, written or signed by or on behalf of a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper, when such book or paper is left in the creditor's possession ... ... ... ... ... ... ... | One anna. |
| 2. ADMINISTRATION-BOND, ... ... ... ... ... | The same duty as a Security-Bond (No. 14). |
| ADOPTION DEED ... See *Instrument*, No. 38. | |
| 3. AFFIDAVIT or declaration in writing on oath or affirmation made before a person authorized by law to administer an oath ... ... ... ... ... ... ... ... | One rupee. |
| See *Exemptions, Schedule II* (*No.* 1). | |
| 4. AGREEMENT TO LEASE, ... ... ... ... ... | The same duty as a Lease (No. 39). |
| 5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT. | |
| (*a*). If relating to the sale of any Government security, share in a Company or Association, or Bill of Exchange ... ... | One anna. |
| (*b*). Whereby the owner or occupier of land in a village in the Bombay Presidency agrees to relinquish his rights therein to the Government, and to accept rights in other land in exchange for the right so relinquished ... ... | Four annas. |
| (*c*). If not otherwise provided for by this Act ... ... | Eight annas. |
| See *Exemptions, Schedule II* (*No.* 2). | |
| 6. APPOINTMENT, in execution of a power whether of trustees or of property, moveable or immoveable, where made by any writing not being a Will ... ... ... ... ... ... | Fifteen rupees. |
| 7. APPRAISEMENT or valuation made otherwise than under an order of the Court in the course of a suit ... ... ... ... ... ... | The same duty as an Award (No. 10). |
| See *Exemptions, Schedule II* (*Nos.* 3 & 4). | |
| APPRENTICESHIP DEED, See *Instrument*, *No.* 31. | |
| 8. ARTICLES OF ASSOCIATION OF A COMPANY, ... ... ... ... | Twenty-five rupees. |
| 9. ARTICLES OF CLERKSHIP or contract, whereby any person first becomes bound to serve as a clerk in order to his admission as an Attorney in any High Court ... ... ... ... ... | Two hundred & fifty rupees. |

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SCHEDULE I—*continued.*

| Description of Instrument. | | Proper Stamp-duty. |
|---|---|---|
| ASSIGNMENT ... | See *Conveyance No.* 21, and *Transfer No.* 60. | |
| AUTHORITY TO ADOPT, | See *Instrument, No.* 38. | |
| 10. AWARD, that is to say, any decision in writing by an arbitrator or umpire on a reference made otherwise than by an order of the Court in the course of a suit. See *Exemptions, Schedule II (No. 6).* | (*a*) Where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000 ... ... ... | The same duty as a Bond (No. 13) for such amount. |
| | (*b*) In any other case ... ... | Five rupees. |
| 11. BILL OF EXCHANGE OR PROMISSORY NOTE, not being a cheque, bond, bank-note, or currency-note ... | (*a*). When payable on demand and the amount exceeds Rs. 20 | One anna. |
| | (*b*). When payable otherwise than on demand, but not more than one year after date or sight. If the amount of the bill or note does not exceed ... ... ... Rs. 200 | If drawn singly. Rs. A. P. 0 2 0; If drawn in set of two, for each part of the set. Rs. A. P. 0 1 0; If drawn in set of three, for each part of the set. Rs. A. P. 0 1 0 |
| | If it exceeds 200 and does not exceed 400 | 0 4 0; 0 2 0; 0 2 0 |
| | ,, 400 ,, 600 | 0 6 0; 0 3 0; 0 2 0 |
| | ,, 600 ,, 1,000 | 0 10 0; 0 5 0; 0 4 0 |
| | ,, 1,000 ,, 1,200 | 0 12 0; 0 6 0; 0 4 0 |
| | ,, 1.200 ,, 1,600 | 1 0 0; 0 8 0; 0 6 0 |
| | ,, 1,600 ,, 2,500 | 1 8 0; 0 12 0; 0 8 0 |
| | For every Rs. 2,500 or part thereof in excess of Rs. 2,500 up to Rs. 10,000 ... ... ... | 1 8 0; 0 12 0; 0 8 0 |
| | For every Rs. 5,000 or part thereof in excess of Rs. 10,000 up to Rs. 30.000 ... ... ... | 3 0 0; 1 8 0; 1 0 0 |
| | And for every Rs. 10,000 or part thereof in excess of Rs. 30,000. | 6 0 0; 3 0 0; 2 0 0 |
| | (*c*). When payable at more than one year after date or sight, | The same duty as a Bond (No. 13) for the amount of such bill or note. |
| 12. BILL OF LADING ... See *Exemptions, Schedule II (No. 7).* | ... ... ... ... | Four annas. If a Bill of Lading is drawn in parts, the proper stamp therefor must be borne by each one of the set. |
| 13. BOND (not otherwise provided for by this Act). ... See *Administration-Bond (No. 2), Customs-Bond (No. 24), Indemnity-Bond (No. 28), Security-Bond (No. 14).* See *Exemptions, Schedule II (No. 8).* | Rs. When the amount or value secured does not exceed 10 | Two annas. |
| | When such amount or value exceeds Rs. 10, but does not exceed 50 | Four annas. |
| | When such amount or value exceeds Rs. 50, but does not exceed 100 | Eight annas. |
| | and for every Rs. 100 or part thereof in excess of Rs. 100 up to 1,000 | Eight annas. |
| | and for every Rs. 500 or part thereof in excess of 1,000 | Two rupees eight annas. |

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SCHEDULE I—*continued.*

| Description of Instrument. | | Proper Stamp-duty. |
|---|---|---|
| 14. BOND OR MORTGAGE-DEED executed by way of security for the due execution of an office, or to account for money received by virtue thereof. See *Exemptions, Schedule II (Nos. 8 and 12).* | (*a*). When the amount secured does not exceed Rs. 1,000 | The same duty as a Bond No. 13. |
| | (*b*). In any other case ... | Five rupees. |
| 15. BOTTOMRY-BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage ... | ... ... ... ... ... | The same duty as a Bond (No 13). |
| 16. CERTIFICATE OF SALE, granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue officer. ... ... ... | ... ... ... ... ... | The same duty as a Conveyance (No. 21) for a consideration equal to the amount of the purchase money |
| 17. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip, or stock in or of any Company or Association, or to become proprietor of shares, scrip, or stock in or of any Company or Association... ... ... | ... ... ... ... ... | One anna. |
| 18. CHARTER-PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer), whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer* ... ... ... | ... ... ... ... ... | One rupee. |
| 19. CHEQUE, for an amount exceeding twenty rupees, | ... ... ... ... ... | One anna. |
| 20. COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors ... ... | ... ... ... ... ... | Ten rupees. |

* See Note (*c*), 32, at end of the Act.

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SCHEDULE I—*continued.*

| DESCRIPTION OF INSTRUMENT. | | PROPER STAMP-DUTY. |
|---|---|---|
| 21. CONVEYANCE, not being a TRANSFER mentioned in No. 60.<br>See *Exemptions, Schedule II (Nos. 5 and 17).* | When the amount of the consideration for such conveyance as set forth therein does not exceed ... Rs. 50 | Eight annas. |
| | When it exceeds Rs. 50 but does not exceed 100 | One rupee. |
| | For every Rs. 100 or part thereof in excess of Rs. 100 up to ... 1,000 | One rupee. |
| | and for every Rs. 500 or part thereof in excess of ... ... 1,000 | Five rupees. |
| CO-PARTNERSHIP ... | See *Instrument, No.* 32. | |
| 22. COPY OR EXTRACT, certified to be a true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to Court-fees.* | (*a*). If the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee ... | Eight annas. |
| | (*b*). In any other case ... | One rupee. |
| See *Exemptions, Schedule II (Nos. 9 and 10).* | | |
| 23. † COUNTERPART OR DUPLICATE of any instrument chargeable with duty, and in respect of which the proper duty has been paid. ... | (*a.*) If the duty with which the original instrument is chargeable does not exceed one rupee ... ... ... | The same duty as is payable on the original. |
| | (*b.*) In any other case ... | One rupee. |
| 24. CUSTOMS-BOND ... | ... ... ... ... ... | The same duty as a Security Bond (No. 14). |
| 25. DECLARATION OF ANY TRUST of or concerning any property, when made by any writing not being a will ... | ... ... ... ... ... | Fifteen rupees. |

* See Section 9, Note (*c*).

† The following is published for general information :—

No. 2153

GOVERNMENT OF INDIA.

RESOLUTION.

*Simla, the 20th July* 1883.

THE attention of the Board of Revenue, Lower Provinces, was recently directed to a case in which a Bank had granted a duplicate receipt to another bank on unstamped paper, although the original receipt was stamped with a duty of one anna, and the money for which the original receipt was granted was required to be accounted for to a party other than the depositor. The case was referred to the Advocate-General for opinion as to whether the duplicate receipt was liable to stamp duty, and the following opinion was given by him :—

"A receipt for money is an instrument within the meaning of the Stamp Act (Act I. of 1879). It follows that a duplicate receipt mentioned in this case is liable to a Stamp of one anna under Article 23 (*a*) of Schedule I."

2. The Governor-General in Council is pleased to direct that steps may be taken to make the opinion of the Advocate-General known to the public.

(*Punjab Government Notification No.* 2039, *dated* 1*st August* 1883, *Punjab Gazette of* 2*nd dem, Part I, page* 458).

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SCHEDULE I—*continued.*

| Description of Instrument. | | Proper Stamp-duty. |
|---|---|---|
| 26. DELIVERY ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns, or the holder thereof to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees ... | ... ... ... ... ... | One anna. |
| DEPOSIT OF TITLE-DEEDS ... | See *Instrument*, *No.* 29. | |
| DISSOLUTION OF PARTNERSHIP ... ... | See *Instrument*, *No.* 33. | |
| DUPLICATE ... ... | See *Counterpart*, *No.* 23. | |
| 27. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT in exercise of powers conferred on such Court by letters patent, or by the Legal Practitioners Act, 1884.* | In the case of an advocate or Vakil ... ... ... | Five hundred rupees. |
| | In the case of an attorney ... | Two hundred and fifty rupees |
| See *Exemptions, Schedule II* (*No.* 11). | | |
| EXCHANGE ... ... ... | See *Instrument*, *No.* 35. | |
| EXTRACT ... ... ... | See *Copy*, *No.* 22. | |
| FURTHER CHARGE... ... | See *Instrument*, *No.* 30. | |
| GIFT ... ... ... ... | See *Instrument*, *No.* 36. | |
| 28. INDEMNITY-BOND ... | ... ... ... ... ... | The same duty as a Security-Bond (No. 14). |
| INSPECTORSHIP-DEED, | See *Composition-deed*, *No.* 20. | |
| 29. INSTRUMENT EVIDENCING AN AGREEMENT TO SECURE THE REPAYMENT OF A LOAN made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property.† | (*a*). When such loan is repayable more than three months, but not more than one year, from the date of such instrument. | The same duty as a Bill of Exchange (No. 11 (*b*)), for the amount secured. |
| | (*b*). When such loan is repayable not more than three months from the date of such instrument. | Half the duty payable on a Bill of Exchange (No. 11 (*b*)), for the amount secured. |
| 30. INSTRUMENT IMPOSING A FURTHER CHARGE ON MORTGAGED PROPERTY ... | (*a*). When the original mortgage is one of the description referred to in No. 44, clause (*a*), of this schedule. | The same duty as a Conveyance (No. 21) for a consideration equal to the amount secured by such instrument. |
| | (*b*). When such mortgage is one of the description referred to in No. 44, clause (*b*), of this schedule. | The same duty as a Bond (No. 13) for the amount secured by such instrument. |
| 31. INSTRUMENT OF APPRENTICESHIP, including every writing relating to the service or | | |

* As amended by Act IX of 1884, Section 10.
See Note (*e*), 29 at end of Act.

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SCHEDULE I—*continued.*

| DESCRIPTION OF INSTRUMENT. | PROPER STAMP-DUTY. |
|---|---|
| tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment, except articles of clerkship (No. 9 of this schedule) ... ... ... ... ... ... | Five rupees. |
| See *Exemptions, Schedule II (No.* 12 (*c*) ). | |
| 32. INSTRUMENT OF CO-PARTNERSHIP .. ... ... ... ... ... | Ten rupees. |
| 33. INSTRUMENT OF DISSOLUTION OF PARTNERSHIP ... ... ... ... ... | Five rupees |
| 34. INSTRUMENT OF DIVORCE, that is to say, any instrument by which any person effects the dissolution of his marriage ... ... ... ... ... | One rupee. |
| 35. INSTRUMENT OF EXCHANGE of any property ... ... ... ... ... ... | The same duty as a Conveyance (No. 21) for a consideration equal to the value of the property of greater value as set forth in such instrument. |
| 36. INSTRUMENT OF GIFT (OTHER THAN A SETTLEMENT OR WILL) ... ... ... ... ... ... ... ... | The same duty as a Conveyance (No. 21) for a consideration equal to the value of the property as set forth in such instrument. |
| 37. INSTRUMENT OF PARTITION ... ... ... ... ... ... ... | The same duty as a Bond (No. 13) for the amount of the value of the property divided as set forth in such instrument. |
| 38. INSTRUMENT (OTHER THAN A WILL) CONFERRING OR PURPORTING TO CONFER AN AUTHORITY TO ADOPT ... ... ... ... ... ... | Ten rupees. |
| INSURANCE ... See *Policy, No. 49.* | |
| 39. LEASE. See *Agreement to lease (No.* 4). See *Exemptions, Schedule II, (No.* 13). — *(a)* Where by such lease the rent is fixed and no premium is paid or delivered and such lease purports to be for a term— | |
| of less than one year ... | The same duty as a Bond (No. 13) for the whole amount payable or deliverable under such lease. |
| of not less than one year, but not more than three years ... ... ... | The same duty as a Bond (No. 13) for the average annual rent reserved. |
| exceeding three years ... | The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value o the average annual rent reserved. |

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SCHEDULE I—*continued.*

| Description of Instrument. | | Proper stamp-duty. |
|---|---|---|
| 39. LEASE,—*contd.* | (*b*) Where by such lease the rent is fixed and no premium is paid or delivered and such lease does not purport to be for any definite term ... ... ... | The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long. |
| | (*c*) Where the lease is granted for a fine or premium, and where no rent is reserved.. | The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of such fine or premium as set forth in the lease. |
| | (*d*) Where the lease is granted for a fine or premium, in addition to rent reserved.. | The same duty as a Conveyance (No. 21) for a consideration equal to the amount or value of such fine or premium as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium had been paid or delivered : |
| | | Provided that, when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas. |
| 40. LETTER OF ALLOTMENT OF SHARES in any Company, or proposed Company, or in respect of any loan to be raised by any Company or proposed Company ... | ... ... ... ... ... | One anna. |
| 41. LETTER OF CREDIT, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn | ... ... ... ... ... | One anna. |
| 42. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion ... | ... ... ... ... ... | Ten rupees. |

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SCHEDULE I—*continued.*

| Description of Instrument. | | Proper Stamp-duty. | |
|---|---|---|---|
| 43. MEMORANDUM OF ASSOCIATION OF A COMPANY ... ... ... ... ... ... | | Fifteen rupees. | |
| 44. MORTGAGE-DEED not provided for by No. 14, No. 15, No 29, or No. 55 of this schedule. | (*a*) When at the time of execution possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given, | The same duty s a Conveyance (No. 21) for a consideration equal to the amount secured by such deed. | |
| See *Exemptions, Schedule II* (*No.* 12, *and No.* 14, (*b*)). | (*b*) When at the time of execution possession is not given nor agreed to be given as aforesaid ... ... | The same duty as a Bond (No. 13) for the amount secured by such deed. | |
| 45. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate, or entry made or signed by a Notary Public in the execution of the duties of his office or by any other person lawfully acting as a Notary Public. ... | ... ... ... ... ... | One rupee. | |
| 46. NOTE OR MEMORANDUM sent by a broker or Agent to his principal intimating the purchase or sale on account of such principal of any goods, stocks or marketable security exceeding in value twenty rupees. ... ... | ... ... ... ... ... | One anna. | |
| 47. NOTE OF PROTEST BY THE MASTER OF A SHIP ... ... ... | ... ... ... ... ... | Eight annas. | |
| PARTITION ... ... ... | See *Instrument, No.* 37. | | |
| PARTNERSHIP ... ... | See *Instrument, Nos.* 23 *and* 33. | | |
| 48. [*Repealed by Act V of* 1888]. ... | | | |
| | | If drawn singly. | If drawn in duplicate for each part. |
| | | R. A. P. | R. A. P. |
| 94. POLICY OF INSURANCE . . . | (*a*) In the case of sea-insurance— When the amount insured does not exceed . Rs. 1,000 | 0 4 0 | 0 2 0 |
| See *Exemption, Schedule II* [*No.* 14 (*a*) ]. | And for every further sum of Rs. 1,000 or part thereof in excess of ... . 1,000 | 0 4 0 | 0 2 0 |

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SCHEDULE I—*continued.*

| Description of Instrument. | | Proper Stamp-Duty. |
|---|---|---|
| | (*b*) In the case of fire-insurance— | |
| | i. In respect of an original policy for a month or any shorter term— | |
| | When the amount insured does not exceed ... ... Rs. 1,000 | R. A. P. 0 2 0 |
| | And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000 | 0 2 0 |
| | ii. In respect of an original policy for more than one month but not more than three months— | |
| | When the amount insured does not exceed ... Rs. 1,000 | 03 0 |
| | And for every further sum of Rs. 1,000 or part thereof in excess of ... Rs. 1,000 | 0 3 0 |
| | iii. In respect of an original policy for more than three months but not more than six months— | |
| 49. POLICY OF INSURANCE—*continued.* | When the amount insured does not exceed ... Rs. 1,000 | 0 4 0 |
| | And for every further sum of Rs. 1,000 or part thereof in excess of ... 1000 | 0 4 0 |
| | iv. In respect of an original policy for a longer term than six months— | |
| | When the amount insured does not exceed ... Rs. 1,000 | 0 6 0 |
| | And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000 | 0 6 0 |
| | v. In respect of renewing for the purpose of keeping in force, a policy which has been granted for six months or any shorter term and in respect of which, and of the previous renewal whereof (if any), there has not already been | |

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SCHEDULE I—*continued.*

| Description of Instrument. | | Proper Stamp-Duty. | |
|---|---|---|---|
| 49. POLICY OF INSURANCE —*concluded.* | paid the duty which would have been chargeable if the policy had originally been granted for a longer term than six months . . | The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends; or the excess of the duty which would have been chargeable if the policy had originally been granted for a longer term than six months, over the duty already paid in respect of the policy, and of the previous renewal thereof (if any); whichever is the smaller sum. | |
| | (c) In the case of any other insurance— | If drawn singly. | If drawn in duplicate for each part. |
| | Rs. | Rs. A. P. | Rs. A. P. |
| | When the amount insured does not exceed ... 1,000 | 0 6 0 | 0 3 0 |
| | And for every further sum of Rs. 1,000 or part thereof in excess of ... 1,000 | 0 6 0 | 0 3 0 |
| NOTE.—Art. 49 is as enacted by Act I of 1888, S. 2. | | | |
| 50. POWER-OF-ATTORNEY-not being a proxy chargeable under No. 51. ... | (a) When executed for the sole purpose of procuring the presentation of one or more documents for registration in relation to a single transaction ... | Eight annas. | |
| | (b) When authorizing one person or more to act in a single transaction other than that mentioned in (a) † ... ... ... | One rupee. | |
| | (c) When authorizing not more than five persons to act jointly and severally in more than one transaction or generally ... | Five rupees. | |
| | (d) When authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally ... ... ... ... | Ten rupees. | |
| | (e) In any other case ... | One rupee for each person authorized. | |

† See Note (e) 23,25 at end of Act.

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SCHEDULE I—*continued.*

| DESCRIPTION OF INSTRUMENT. | PROPER STAMP-DUTY. |
|---|---|
| *Explanation.*—For the purpose of this number more persons than one when belonging to the same firm shall be deemed to be one person. | |
| PROMISSORY NOTE ... See *Bill of Exchange, No.* 11. | |
| PROTEST, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note ... See *Notarial Act, No.* 45. | |
| PROTEST BY THE MASTER OF A SHIP, that is to say any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such ... See *Notarial Act, No.* 45. | |
| 51. PROXY empowering any person to vote at any one meeting of— (*a*). Members of a Company whose stock or funds is or are divided into shares and transferable: (*b*). Municipal Commissioners: (*c*). Proprietors, Members, or Contributors to the Funds of any Institution. ... ... ... ... | One anna. |
| 52. RECEIPT FOR ANY MONEY OF OTHER PROPERTY THE AMOUNT OR VALUE OF WHICH EXCEEDS TWENTY RUPEES ... ... ... ... ... | One anna. |
| See *Exemptions, Schedule II,* (*No.* 15). | |
| 53. RE-CONVEYANCE OF MORTGAGED PROPERTY ... (*a*). If the consideration for which the property was mortgaged does not exceed ... Rs. 1,000 | The same duty as a Conveyance (No 21) for the amount of such consideration as set forth in the re-conveyance. |
| (*b*). In any other case ... | Ten rupees. |

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SCHEDULE I—*continued.*

| Description of Instrument. | | Proper Stamp-duty. |
|---|---|---|
| 54. RELEASE, that is to say, any instrument whereby a person renounces a claim upon another person or against any specified property. | (*a*). If the amount or value of the claim does not exceed ... Rs. 1,000 | The same duty as a Bond (No. 13) for such amount or value as set forth in the release. |
| | (*b*). In any other case ... ... | Five rupees. |
| 55. RESPONDENTIA-BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination ... | ... ... ... ... ... | The same duty as a Bond (No. 13). |
| 56. REVOCATION OF ANY TRUST of or concerning any property by any instrument other than a will ... | ... ... ... ... ... | Ten rupees. |
| 57. SETTLEMENT ... | ... ... ... ... ... | The same duty as a Bond (No. 13) for a sum equal to the amount or value of the property settled as set forth in such settlement. |
| 58. SHIPPING-ORDER for or relating to the conveyance of goods on board of any vessel ... | ... ... ... ... ... | One anna. |
| 59. SURRENDER OF LEASE<br>See *Exemptions, Schedule II,* (*No.* 16). | (*a*). When the duty with which the lease is chargeable does not exceed five rupees ... | The duty with which such lease is chargeable. |
| | (*b*). In any other case ... | Five rupees. |
| 60. TRANSFER ... ...<br>See *Exemptions, Schedule II* (*No.* 17). | (*a*). *Of shares in a Company or Association ... ... ... | One-quarter of the duty payable on a Conveyance (No. 21) |
| | (*b*). Of any interest secured by a Bond, Lease, Mortgage-deed, or Policy of Insurance— | |
| | 1. If the duty on such Bond, Lease, Mortgage-deed, or Policy does not exceed five rupees ... | The duty with which such Bond, Lease, Mortgage-deed, or Policy of Insurance is chargeable. |
| | 2. In any other case ... | Five rupees. |
| | (*c*). Of any property under the Administrator General's Act, 1874, Section 31 ... | Ten rupees. |
| | (*d*). Of any trust-property from one trustee to another trustee without consideration... | Five rupees. |

* See Note (*e*), 7, *post.*

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SCHEDULE I—*concluded.*

| DESCRIPTION OF INSTRUMENT. | PROPER STAMP-DUTY. |
|---|---|
| TRUST ... ... ... ... See *Declaration, No.* 25. *Revocation, No.* 56. | |
| VALUATION ... ... ... See *Appraisement, No.* 7. | |
| 61. WARRANT FOR, GOODS, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse, or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be ... ... ... ... ... ... | Four annas. |

## SCHEDULE II.

### INSTRUMENTS EXEMPTED FROM STAMP-DUTY.

1. Affidavit or declaration in writing when made—

(*a*) as a condition of enlistment under the Indian Articles of War ;

(*b*) for the immediate purpose of being filed or used in any Court or before the officer of any Court ; or

(*c*) for the sole purpose of enabling any person to receive any pension or charitable allowance.

2. Agreement or memorandum of agreement—

(*a*) for or relating to the sale of goods or merchandize exclusively, not being a note or memorandum chargeable under No. 46 of Schedule I ;

(*b*) for service in British Burma under the Chief Commissioner of that Province entered into between Natives of India emigrating to British Burma and the Superintendent of State Emigration or other Government officer acting as representative of the said Chief Commissioner;

(*c*) made by raiyats for the cultivation of the poppy for Government ;

(*d*) made in the form of tenders to the Government of India for or relating to any loan ;

(*e*) made regarding the occupancy of land denoted by a survey-number, and the payment of revenue therefor, under Bombay Act I of 1865 ;

(*f*) made under the European Vagrancy Act, 1874, Section 17.

3. Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.

4. Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.

5. Assignment of copyright by entry made under Act No. XX of 1847, Section 5.

6. Award under Bombay Act VI of 1873, Section 81, or Bombay Act III of 1874, Section 18.

7. Bill of lading, when the goods therein described are received at a place within the limits of any port as defined under the Indian Ports Act, 1875, and are to be delivered at another place within the limits of the same port.

8. Bond when executed by—

(*a*) the sureties of middlemen (lambardars or khattadars) taking advances for the cultivation of the poppy for Government ;

(*b*) headmen nominated under rules framed in accordance with Bengal Act III of 1876, Section 99, for the due performance of their duties under that Act ;

(*c*) any person for the purpose of guaranteeing that the local income derived from private subscription to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.

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SCHEDULE II—(*continued*).

9. Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.

10. Copy of registration of emigrants furnished under Section 27 or Section 29 of the Indian Emigration Act, 1871.

11. Entry—

(*a*) of an advocate, vakil, or attorney on the roll of any High Court, when he has previously been enrolled in a High Court;*

(*b*) on the roll of any High Court, as an attorney, of an articled clerk bound as such before this Act comes into force.

12. Instruments—

(*a*) executed by persons taking advances under the Land Improvement Act, 1871, or by their sureties, as security for the repayment of such advances;

(*b*) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money received by virtue thereof;

(*c*) of apprenticeship executed by a Magistrate under Act XIX of 1850, or by which a person is apprenticed by or at the charge of any public charity.

13. Leases and Counterparts—

(*a*) Lease of fisheries granted under the Burma Fisheries Act, 1875;

(*b*) Lease, executed in the case of a cultivator without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the annual rent reserved does not exceed one hundred rupees;

(*c*) Counterpart of any lease granted to a cultivator.

14. Letter—

(*a*) of cover or engagement to issue a policy of insurance:

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

(*b*) of hypothecation accompanying a bill of exchange.

15. Receipt—

(*a*) endorsed on or contained in any instrument duly stamped, or exempted under this schedule, No. 18, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal-money, interest, or annuity, or other periodical payment thereby secured;

(*b*) for any payment of money without consideration;

(*c*) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of Fort St. George and Bombay) of inam lands;

(*d*) for pay by non-commissioned officers or soldiers of Her Majesty's Army, or Her Majesty's Indian Army, when serving in such capacity;

(*e*) for pensions or allowances by persons receiving such pensions or allowances, in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity;

(*f*) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said Armies, and serving in such capacity;

(*g*) given by a headman or lambardar for land-revenue or taxes collected by him;

(*h*) given for money or securities for money deposited in the hands of any banker, to be accounted for:

Provided the same be not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for:

Provided also, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of or in any Company or Association, or proposed or intended Company or Association.

16. Surrender of lease when such lease is exempted from duty.

17. Transfers by endorsement—

(*a*) of a bill of exchange, cheque, or promissory note;

* As amended by Act IX of 1884, Section 10.

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SCHEDULE II—*continued.*

(*b*) of a bill of lading;

(*c*) of a policy of insurance;

(*d*) of mortgages of rates and taxes authorized by any Act for the time being in force in British India;

(*e*) of securities of the Government of India;

(*f*) of a warrant for goods (No. 61 of Schedule I).

*General Exemption.*

18. Any instrument executed by, or on behalf of, or in favour of Government, in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument.

SCHEDULE III.

ACTS REPEALED.

| Number and year. | Subject or short title. | Extent of repeal. |
|---|---|---|
| XX of 1847. ... | Copyright ... ... | In section five, the words "without being subject to any stamp or duty." |
| X of 1866 ... | The Indian Companies Act... | In section eleven, the words "shall bear the same stamp as if it were a deed and." In section sixteen, the words "they shall bear the same stamp as if they were contained in a deed." |
| XVIII of 1869 ... | The General Stamp Act ... | The whole. |
| VII of 1871 ... | The Indian Emigration Act | In sections twenty-seven and twenty-nine, the words "which shall not require a stamp." |
| XIX of 1873 ... | The North-Western Provinces Land-Revenue Act, 1873 | In section one hundred and eighty-three, the words "stamped or." |
| II of 1874 ... | The Administrator-General's Act. | In section thirty-one, the words "bearing a stamp of ten rupees and." |
| IX of 1874 ... | The European Vagrancy Act | In section seventeen, the words "may be on unstamped paper and." |
| XV of 1876 ... | Bombay Municipal Debentures | In section two, the words "and no such endorsement shall be chargeable with any stamp-duty." |

NOTES.—(*a*). In exercise of the powers conferred by Sections 9, 15, 17, 32, 51, and 56 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to make the following Rules:—

CHAPTER I.

*Preliminary.*

1. These rules shall come into force throughout British India on the 1st April 1882, in supersession of the rules promulgated by Notifications No. 875, dated 26th February, and 966, dated 4th June 1881.

2. All words and expressions used in these Rules and defined in the Indian Stamp Act, 1879, shall be deemed to have the meaning attached to them respectively by the said Act.

3. There shall be two kinds of stamps for indicating the payment of duty on instruments under the Indian Stamp Act, 1879, namely—

(*a*). Impressed Stamps—including—

Impressed Sheets,—that is to say, sheets of paper bearing the impression of Stamps of different values engraved thereon, and sold to the public for use by them in accordance with these Rules.

Impressed Labels,—to be affixed and impressed by Government Officers as directed in Chapter III of these Rules.

(*b*). Adhesive Stamps sold to the public for use by them in accordance with these Rules.

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## CHAPTER II.

### *Of Impressed Sheets.*

4. All instruments chargeable with duty except Hundis, may be written on Impressed Sheets, and, except as provided by Section 10 of the said Act and by these Rules, shall be so written.

5 (*a*). When any instrument is to be written on an Impressed Sheet, if the amount of duty with which such instrument is chargeable does not exceed Rs 100, a single sheet shall be used, unless—

where the application for the required stamp is made at a treasury, the officer in charge of such treasury, or where such application is made to a stamp-vendor, the vendor, certifies that he is unable to furnish a single stamp of the required value.

(*b*). When the amount of duty chargeable in respect of any instrument exceeds Rs. 100, or a treasury officer or stamp-vendor has certified under clause (*a*) that he is unable to furnish a single stamp of the required value, the number of sheets used for indicating the payment of duty shall not exceed the number which the treasury officer or the stamp-vendor certifies in either case to be the smallest number which he can furnish so as to make up the required amount.

(*c*). No certificate shall be made under clause (*a*) or clause (*b*) by a stamp-vendor in any case in which the stamp duty required exceeds the highest value of the stamps which such vendor is authorized to sell.

(*d*). When under this Rule, two or more Impressed Sheets are used to make up the amount of duty chargeable in respect of any instrument, a portion of such instrument shall be written on each sheet so used.

†(*e*). When a single sheet used under this rule is found insufficient to admit of the entire instrument being written on the side of the paper which bears the stamp, so much plain paper may be subjoined thereto as may be necessary for the complete writing of such instrument: provided that in every such case the side of the sheet which bears the stamp must be covered by a substantial part of the instrument before any part of the latter can be written on the plain paper joined to such sheet.

*(*f*) When any instrument of transfer of shares in a Company or Association is written on an Impressed sheet and the value impressed thereon is subsequently, in consequence of a rise in the market value of such shares, found to fall short of the amount of duty chargeable under Article 60 (*a*), Schedule I of the Act, two or more adhesive Share Transfer Stamps hereinafter mentioned may be used to make up the required amount.

6. (*a*). Hundis other than hundis which can be stamped with an adhesive stamp under Section 10 of the said Act shall be written as follows :

(1). Hundis payable otherwise than on demand, but not more than one year after date or sight, and for amounts not exceeding Rs. 30,000 in individual value, on impressed sheets bearing the word Hundi ;

(2). Hundis exceeding Rs. 30,000 in individual value, and Hundis payable at more than one year after date or sight, on paper supplied for sale by the Government, and to which labels have been affixed by one of the officers mentioned in Rule 9, clause (*b*), or by the Superintendent of Stamps, Calcutta, and impressed by him in manner provided by Rule 10.

(*b*). Every sheet of such stamped paper shall be of a size not less than $8\frac{5}{8} \times 5\frac{1}{2}$ inches and no plain paper shall be joined to it.

(*c*). The provisions in Rule 5 as to use of two or more sheets of stamped paper when a single stamp of the required value is not procurable, apply also to Hundi stamps used under this Rule.

**6 A. Promissory Notes drawn or made in British India and chargeable with a duty of annas 6, 10, or 12, shall be written on impressed sheets of those values bearing the word 'Hundi'.

‡7. The duty payable on any instrument chargeable with a duty of one anna may be denoted by a coloured impression marked on a skeleton form of such instrument by the Superintendent of Stamps at Calcutta, Bombay, Madras, Rangoon, or Lahore, and by the Commissioner of Stamps at Allahabad.

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† *Vide* Govt. of India Notification No. 3515, dated 16th October 1885 (*Gazette of India of 17th idem*).

* Added by Government of India Notification No. 1444, dated 16th March 1883.

** Added by Government of India Notification No. 2955, dated 1st December 1882.

‡ *Vide* Government of India Notification No. 434, dated 28th January 1886 (*Gazette of India of 30th idem*).

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## CHAPTER III.

*Of Impressed Labels.*

8. Impressed labels may be used for the following instruments and counterparts thereof namely,—

(1.) Administration-bonds :

(2.) Affidavits :

(3.) Appointments made in execution of a power :

(4.) Articles of Association of a Company :

(5.) Articles of clerkship :

(6.) Bills of lading :

(7.) Charter-parties :

(8.) Declarations of trust :

(9.) Instruments evidencing an agreement to secure the repayment of a loan made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property :

(10.) Leases printed or lithographed in an Oriental language, when the written matter filled in does not exceed one-fourth of the printed matter :

(11.) Memoranda of Association of Companies :

(12.) Notes of Protest :

(13.) Petitions for leave to file a specification of an invention, &c. :

(14.) Policies of insurance :

(15.) Revocations of trust :

(16.) Warrants for goods :

and for the following—when written in any European language, provided that any instrument written in any European language other than English shall have attached to it a translation in the English language—

(17.) Agreements or memoranda of Agreements which in the opinion of the officer empowered to affix the label cannot conveniently be written on Impressed Sheets :

(18.) Instruments engrossed on parchment and written in the English style, which in the opinion of such officer cannot conveniently be written on Impressed Sheets :

(19.) Awards :

(20). Bills of Exchange payable otherwise than on demand and drawn in British India :

(21.) Bonds :

(22.) Certificates of sale :

(23.) Composition deeds :

(24.) Conveyances :

(25.) Instruments imposing a further charge on mortgaged property :

(26.) Instruments of apprenticeship :

(27.) Instruments of co-partnership :

(28.) Instruments of dissolution of partnership :

(29.) Instruments of exchange :

(30.) Instruments of gift :

(31.) Instruments of partition :

(32.) Leases :

(33.) Letters of license :

(34.) Mortgage-deeds :

(35.) Powers of Attorney :

(36.) Re-conveyances of mortgaged property :

(37.) Releases :

(38.) Settlements :

(39.) Transfers of the description mentioned in Article No. 60, clauses (*b*), (*c*) and (*d*), of the first schedule of the said Act.

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9. The following officers are empowered to affix these labels to the instruments mentioned in Rule 8, namely,—

(*a*) the Collectors of Calcutta and Kurrachee, † and the Huzur Deputy Collector, Karachi, when the Collector is absent from head quarters;

(*b*) the Superintendents of Stamps at Madras, Bombay, Lahore, Rangoon, Moulmein, and Akyab;

(*c*) the Commissioner of Stamps, North-Western Provinces and Oudh;

(*d*) the Superintendent of Stamps (Political Resident), Aden.

10. (*a*). Every such officer shall, upon any instrument mentioned in Rule 8 being brought to him before it is executed, an application being made to him for that purpose, affix thereto a label or labels of such value as the applicant may desire and pay for, and impress such label or labels by means of a stamping-machine, and also stamp or write on the face of the label or labels the date of impressing the label or labels before returning the instrument to the applicant. In the case of instruments, written on parchment, the labels must be further secured by metallic eyelets.

(*b*). When the stamp duty amounts to Rs. 5 or upwards, such officer or some principal assistant of such officer appointed by the Local Government from time to time in this behalf †† shall further write on the face of the label or labels his initials, and, when the Stamp duty amounts to Rs. 20 or upwards, shall also attach his usual signature to the instrument immediately under the labels.

In Calcutta, the Deputy Collector and the Superintendent of the Stamp Department of the Collector's office as well as the Collector are empowered to initial any label or labels and to attach their usual siguatures to any instrument immediately under the labels.

The Superintendent in the Office of the Superintendent of Stamps, Lahore, is empowered to initial any label or labels, and to attach his usual signature to any instrument immediately under the labels during the absence of the Superintendent of Stamps from Lahore.*

11. (*a*) The payment of the duty on instruments (other than Bills of Exchange, Cheques and Promissory Notes) executed out of British India and requiring to be stamped after their receipt in British India, shall be indicated only by impressed labels.

(*b*). When any such instrument is taken to the Collector under Section 17 of the said Act, the Collector, unless he be Collector of Calcutta or Kurrachee, shall send the instrument to one of the officers mentioned in Rule 9, remitting the amount of duty paid in respect of such instrument; and such officer shall stamp the instrument in the manner prescribed by Rules 10 (*a*) and 10 (*b*) and return the same to the Collector for delivery to the person by whom it was produced.

## CHAPTER IV.

### *Adhesive Stamps.*

12. Bills of Exchange, payable otherwise than on demand and drawn in sets, when the amount of stamp duty does not exceed 1 anna for each part of the set, may be stamped with adhesive stamps.

13. Except as otherwise provided in these Rules, the adhesive stamps used to denote the duty of 1 anna shall bear the words "one anna."

14. The following instruments when stamped with adhesive stamps shall be stamped as follows:—

** (*a*). Bills of Exchange, Cheques, and Promissory Notes drawn or made out of British India and chargeable with a duty of more than one anna, with adhesive stamps bearing the words "Foreign Bill."

(*b*). Transfers of shares of Public Companies and Associations, with adhesive stamps bearing the words "Share Transfer."

(*c*). An entry as an Advocate, Vakil, or Attorney on the roll of any High Court, with an adhesive stamp bearing the word "Advocate," "Vakil," or Attorney."

(Such stamps shall be affixed under the superintendence and responsibility of a Gazetted officer of the High Court, who shall obtain the stamp from the Superintendent of Stamps and account to him for it. The Gazetted officer who affixes the stamps shall write on the face of it his usual signature and the date of signature before parting with the instrument).

† *Vide* No. 1611, dated 25th June 1886, *Gazette of India* of 26th idem, Part I, page 391.

†† *Vide* No. 5700, dated 26th October 1887, *Gazette of India* of 29th idem, Part I, page 546.

* The last two clauses of the rule are added by Government of India Notification No. 59 dated 5th May 1886, and No. 2727, dated 24th August 1886, respectively.

** Amended by Government of India Notification No. 2955, dated 1st December 1882.

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(*d*). Notarial Acts, with adhesive Foreign Bill stamps bearing the word "Notarial" printed over them.

CHAPTER V.

*Miscellaneous.*

15. When it is necessary under Section 15 of the said Act to denote upon one instrument the payment of duty in respect of another, such payment shall be denoted by an endorsement under the hand of the Collector on the former instrument.

16. Every payment made under Section 13 of the said Act shall be made in cash.

17. The Collector may require every person claiming a refund or renewal under Chapter VI of the said Act or his duly authorised agent to make an oral deposition on oath or affirmation or to put in an affidavit, setting forth the circumstances under which the claim has arisen. The Collector may also, if he thinks fit, call for the evidence of witnesses in support of the statement set forth in the deposition or affidavit of the claimant or his agent.

18. Any Magistrate convicting or trying an offender under Chapter VIII of the Stamp Act may grant to any person, who may have contributed to the conviction, a reward within a limit to be fixed by the local Government.—(*Government of India Notification No.* 1288, *dated* 3*rd March* 1882, *Gazette of India of* 11*th idem*).

(*b*).—The Hon'ble the Lieutenant-Governor is pleased, in supersession of the Notifications marginally mentioned, to prescribe the following rules, under Section 55 of Act I of 1879, and Section 27 of Act VII of 1870, for regulating the supply and sale of non-judicial and judicial stamps, the persons by whom such sale is to be conducted, and the duties and remuneration of such persons.

Punjab Government Notification, Revenue, Agriculture and Commerce Department, No. 183, dated 11th February 1881.

Punjab Government Notification, Home Department (Registration and Stamps), No. 73, dated 24th September 1883.

2. These rules shall take effect from the 9th July 1885.*

I.—For the purposes of these rules, stamps are divided into seven classes, namely :

*Non-Judicial* (*under Act I of* 1879).

(1) Impressed stamps, other than impressed labels and hundi stamps.

(2) Adhesive labels of the value of one anna, commonly called "receipt stamps."

(3) All other adhesive stamps authorized by Section 10.

(4) Hundi stamps.

*Judicial* (*under Act VII of* 1870).

(5) Impressed court-fee stamps.

(6) Adhesive court fee stamps (new pattern) with lines provided for enfacement under Rule XI.

(7) Adhesive court fee stamps (old pattern) on which no lines are provided for enfacement.

II.—All Government treasurers and their agents and subordinates entrusted with the custody and sale of stamps on behalf of Government in all Sadar and Tahsil treasuries, and such other persons as the Financial Commissioner may appoint, shall be *ex-officio* vendors, and shall sell to licensed vendors and to the public, on application, all kinds of stamps mentioned in Rule I.

III.—Such persons as may be licensed by the Deputy Commissioner of the district, or other officer empowered by the Local Government to grant licenses, shall be *licensed* vendors. They shall sell only such stamps as are indicated in their licenses; they may be licensed to sell any or all of the kinds of stamps mentioned in Rule I.

IV.—*Ex-officio* vendors may also be licensed at the discretion of the Deputy Commissioner of the district or other officer empowered by the Local Government to grant licenses : provided that no officer charged with the duty of affixing or cancelling judicial stamps shall be licensed to sell court fee stamps.

V.—The license shall be in the following form, and shall be revocable at any time by the Local Government, or by the authority who granted it :—

* This date was altered to the 1st September 1885, by Punjab Government Notification No. 888 S., dated 5th August 1885, *Punjab Gazette* of 6th idem, Part I, page 583.

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*Form of License.*

License is hereby granted to (*name, father's name, and residence of licensee*) to sell at (*place of vend*), stamps of the description mentioned in the margin for a period of (*here state duration of license*) commencing from (*date*), subject to the Rules made on that behalf under the Indian Stamp Act, 1879, and the Court Fees Act, 1870, and subject to the following conditions (*here state conditions if any*). The infringement of any of these rules will render the holder liable to the penalty prescribed in Section 68 of Act I of 1879, namely, imprisonment for a term which may extend to six months, or fine not exceeding five hundred rupees, or both.

(*Signature of Deputy Commissioner or other licensing authority*).

VI.—Subject to Rules VII. and VIII., every licensed vendor, who purchases stamps of the kinds authorized by his license from an *ex-officio* vendor by payment of ready money, shall receive the same at the following rates of discount :—

| Description of Stamp. | Rate of discount. |
|---|---|
| CLASS (1)— | |
| At places where there are *ex-officio* vendors .. | 3 per cent. |
| At places where there are no *ex-officio* vendors ... | 5 ,, |
| CLASS (2) ... | $6\frac{1}{4}$ ,, |
| CLASSES (3) AND (4)— | |
| When the value of each stamp does not exceed eight annas ... | $6\frac{1}{4}$ ,, |
| When the value exceeds eight annas ... | $3\frac{1}{8}$ ,, |
| CLASSES (5), (6) AND (7) ... | $1\frac{9}{16}$ ,, |

Provided that no discount shall be allowed under this rule on the sale of stamps to persons not being licensed vendors, nor of kinds not mentioned in Rule I., nor on the sale of any stamp exceeding fifty rupees in value, nor when the total value of the stamps of each class purchased at one time is less than twenty rupees.

VII.—Deputy Commissioners may, in their discretion, grant special licenses for the sale of stamps of any kind falling under Classes (1) and (2) of Rule I., to Sub-Postmasters in their respective districts at places other than the headquarters of a tahsil, subject to the following conditions ; and may also, in their discretion, withdraw or cancel such special licenses :—

(*a*) Any Sub-Postmaster specially licensed under this rule may, at the time of being licensed, receive without payment of ready money an advance of stamps of any kinds he is licensed to sell, of an aggregate value not exceeding fifty rupees ; the Sub-Postmaster receiving such advance shall give a receipt for the money value thereof, which receipt shall be renewed from year to year in the manner prescribed for permanent advances on account of contingent expenditure ; when he ceases to be licensed or desires to discontinue the advance, the Sub-Postmaster shall refund the value entered in the receipt, either in money, or in stamps of any kind which he is licensed to sell ; and the receipt shall then be returned to him.

(*b*) All stamps, other than those included in the above-mentioned advance, shall be supplied to Sub-Postmasters specially licensed under this rule on payment of ready money for their value, less a discount of 2 *per cent.*, provided that no discount shall be allowed on stamps which the Sub-Postmaster concerned is not licensed to sell.

(*c*) The stamps supplied to licensed Sub-Postmasters under this Rule, as well as their remittances of the value to the nearest treasury, shall be sent through the post in insured parcels, the charges for postage and insurance being borne by the Stamp Department.

VIII.—With the previous sanction of the Financial Commissioner, Deputy Commissioners may, in their discretion, grant special licenses for the sale of stamps of Class (2) to any patwaris

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employed in their respective districts, subject to the following conditions ; and may also in their discretion withdraw or cancel such special licenses :—

(*a*) Any patwari specially licensed under this Rule may, at the time of being licensed, receive without payment of ready money an advance of stamps of Class (2), of an aggregate value not exceeding five rupees ; the patwari receiving such advance shall give a receipt for the money value thereof, which receipt shall be renewed from year to year in the manner prescribed for permanent advances on account of contingent expenditure : when he ceases to be licensed or desires to discontinue the advance, the patwari shall refund the value entered in the receipt, either in money or in stamps of Class (2) ; and the receipt shall then be returned to him.

(*b*) Stamps of Class (2), other than those included in the above-mentioned advance, shall be supplied to patwaris specially licensed under this rule on payment of ready money for their value, less a discount of 6¼ *per cent.* : provided that no discount shall be allowed when the value of the stamps purchased at one time is less than five rupees.

(*c*) The stamps supplied to licensed patwaris under this rule, as well as their remittances of the value to the nearest treasury, shall be sent through the post in insured parcels, the charges for postage and insurance being borne by the Stamp Department.

IX.—Every licensed vendor shall exhibit conspicuously, at his place of vend, a sign-board bearing his name and the words "Licensed Vendor of Stamps." He shall also have at the same place, for reference on application by intending purchasers, a copy of these rules and of the Acts of the Legislature relating to the stamps sold by him.

X.—Every vendor shall endorse, on each stamp of Class (1) or (5) which he sells, the following particulars :—

(*a*) a serial No, there being a separate series for each calendar year ;

(*b*) date of sale ;

(*c*) name, father's name, and residence of purchaser ·

(*d*) value of stamp in full, in words ;

(*e*) his ordinary signature.

He shall at the same time make a corresponding entry in a Register to be kept in the following form : provided that when an *ex-officio* vendor sells stamps of Class (1) or (5) to a licensed vendor. no such endorsement or entry shall be made :—

FORM OF REGISTER.

(*Name of vendor, district, and place of vend to be written on the top of the page.*)

| Date of sale. | Serial No. | Value of stamp in full, in words. | Description of stamp. | Name, father's name, and residence of purchaser. | Purpose for wich required. |
|---|---|---|---|---|---|
| | | | | | |

XI.—Every vendor shall enface on each stamp of Class (6) which he sells the following particulars :

(*a*) name of purchaser :

(*b*) date of sale ;

(*c*) his ordinary signatnre ;

Provided that when an *ex-officio* vendor sells stamps of Class (6) to a licensed vendor, no such enfacement shall be made.

XII.—No vendor shall knowingly make—

(*a*) a false endorsement on any stamp sold under Rule X., or

(*b*) a false enfacement on any stamp sold under Rule XI., or

(*c*) a false entry in the Register prescribed in Rule X.

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XIII.—In addition to the Register mentioned in Rule X., every *ex-officio* vendor shall keep such a register and accounts as may be prescribed from time to time by the Superintendent of Stamps.

XIV.—Every vendor shall allow the Deputy Commissioner of the district, or other officer duly authorized by him or by the Local Government, at any time to inspect the registers and accounts which he is required to maintain by Rules X. and XIII., and to examine the store of stamps in his possession.

XV.—Every vendor shall, at any time on the demand of the Deputy Commissioner of the district, or other officer duly authorized by him or by the Local Government, deliver up all stamps remaining in his possession, and if such stamps have been paid for, he shall receive back the value thereof, less any discount which may have been allowed.

XVI.—Every licensed vendor shall, without delay, deliver any stamp which he has in his possession for sale, on demand by any person tendering the value thereof in any currency which would be accepted on behalf of Government at the Government Treasury, and he shall not demand or accept therefore any consideration exceeding its proper value: Provided that no vendor shall sell stamps of any kind the use of which has been ordered by competent authority to be discontinued.

XVII.—Any person other than an *ex-officio* or licensed vendor, who sells or offers for sale any stamp of Class (1), or (2), or (3), or (4), is liable to the penalty prescribed in Section 68 of the Indian Stamp Act, 1879, namely, imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both; but this rule does not apply to the sale by any such person of any stamp of Class (5), or (6), or (7), there being nothing in the existing law to prevent court fee stamps passing freely from hand to hand like postage stamps.

(*Punjab Government Notification No.* 1729, *dated* 4*th July* 1885, *Punjab of Gazette of* 9*th idem, Part I, page* 484).

(*c*). See also *Stamp Circular No.* 17 *of* 1885.

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(*d*). The following Rules made by the Government of India in the Department of Finance and Commerce, relating to the supply, custody and distribution of stamps, are published for the information and guidance of all officers concerned:—

*Rules for the custody, supply, and sale of Stamps of all descriptions, namely, General Stamps used to denote the duties payable under the Stamp Act*, 1879; *Court-fee Stamps used to denote the fees payable under the Court-fees Act*, 1870. *Telegraph Stamps and Postage Stamps.*

CENTRAL DEPÔTS.

1. There shall be three central depôts for stamps of all descriptions, in charge of the Superintendents of Stamps at Madras, Bombay and Calcutta respectively. These central depôts shall maintain a stock of stamps sufficient for two years' consumption. The Superintendents of Stamps in Madras and Bombay shall, for this purpose, forward not later than the last week in September in each year indents for the supply of the various descriptions of stamps required in the following year for the territories dependent on them for the supply of stamps to the Superintendent of Stamps, Calcutta. The Superintendent of Stamps, Calcutta, shall prepare a general consolidated indent for stamps of all descriptions, showing separately the demand for the following year for each of the three Presidencies, including in it the indents of the Superintendents of Stamps, Madras and Bombay; and shall forward this general indent to the Government of India in the Financial Department for transmission to the Secretary of State so as to reach him not later than the 1st November in each year. The Superintendent should forward a copy of the section of the general indent relating to postage stamps to the Director-General of the Post Office, and of the section relating to Telegraph stamps to the Director-General of Telegraphs.

2. Stamps for the Madras Presidency, including Coorg and local depôts subordinate to Madras, shall be supplied from the central depôt at Madras on the indent of the officers in charge of local depôts.

3. Stamps for the Presidency of Bombay, including Sind, the Berars, the Central Provinces, and local depôts subordinate to Bombay, shall be supplied from the central depôt, Bombay, on the indent of officers in charge of local depôts.

4. Stamps for the Bengal Presidency, including the North-Western Provinces and Oudh, the Punjab, Central India, Rájpútána, Assam, and British Burma, and local depôts subordinate to Calcutta, shall be supplied from the central depôt, Calcutta, on the indent of officers in charge of local depôts.

5. The Superintendents of Stamps, Madras, Bombay and Calcutta, on receiving an indent from a local depôt, shall have the indent examined to ascertain that the indent is such as to insure the local depôt having a proper supply, and may comply with the indent in full

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or in part as he thinks fit. If he thinks that the indent should be increased, he should request the officer who submitted the indent to submit a supplementary indent. The Superintendents of Stamps should also, if the monthly statements of transactions (Rule 33) show that the balance of any kind of stamp in any local depôt is falling too low, call the attention of the officer in charge to the fact. The Presidency Post Offices of Calcutta, Madras and Bombay may indent for supplies on the central depôts.

### LOCAL DEPÔTS.

6. Every treasury throughout India, including those attached to political and salt agencies, shall be a local depôt for the custody and sale of stamps of all descriptions. Local Governments may establish local depôts at places where there is no treasury.

7. Each local depôt shall, unless the Local Government otherwise directs, maintain a supply of stamps equal to the probable consumption of five months. Local Governments may direct that the supply to be maintained either generally or in respect of any particular kind of stamp or in certain local depôts shall be equal to the probable consumption of such other period as they deem expedient.

8. As soon as the number of stamps in the local depôt falls below the number issued from the depôt in the preceding six months, the officer in charge of the depôt shall prepare an indent for a supply equal to the probable consumption of three months. The indent shall show in separate columns for each denomination of stamp of which a supply is required the total of the balance in the local depôt and any branch* depôts subordinate to it, the quantity sold in the preceding six months, and the quantity indented for, which should be approximately one-half of the quantity sold in the preceding six months. The periods of "six months" and three months" of this rule may, like that of five months in Rule 7, be altered by Local Governments to such other periods as they may deem expedient This indent will be forwarded direct to the Superintendent of Stamps, Madras, Bombay or Calcutta, as the case may be; but the Local Government of any province may direct that the indents be forwarded through any other officer, such as the Superintendent of Stamps of the province, or that a copy of the indent shall be forwarded to such officer.

9. If the supply of stamps in any local depôt should run short before the receipt of the supply from the central depôt, the officer in charge of the local depôt should indent for a supply from a neighbouring depôt, sending a copy of the indent to the Superintendent or Commissioner of Stamps of the province, or such other officer as the Local Government may direct. It is the duty of the Superintendent of Stamps, Madras, Bombay or Calcutta, to report to the Local Government (or such authority as the Local Government may direct), in the case of General and Court-fee stamps, to the Director-General of the Post Office in the case of Postage stamps, and to the Director-General of Telegraphs in the case of Telegraph stamps, any case in which it may come to his knowledge that the stock of stamps in any local depôt of any description has fallen below the prescribed amount.

10. As soon as possible after the arrival of a supply of stamps from the central depôt or from another local depôt, the officer in charge of the local depôt shall have the boxes or packets opened in his presence and the contents of each box or packet counted either by himself or in his presence immediately on being opened. The number of stamps received shall be compared by the officer in charge with the number in the invoice, and a receipt shall be sent as soon as possible to the officer who despatched the stamps.

11. Local Governments may issue such orders as may be thought necessary regarding the detailed counting of stamps received in a local depôt, and as to the descriptions of stamps which the officer in charge must count with his own hands. Such orders may include instructions that a certain percentage only of sealed packets marked as containing a certain number of stamps need be opened and counted at the time of receipt, and the remainder, if the percentage opened are all found correct, left with seals unbroken to be counted as they are required on being given out from double lock. The officer in charge is responsible for observing any such instructions and for satisfying himself as to the number of stamp received before signing the receipt.

12. If any of the stamps received are found to be unfit for issue, they should be at once returned to the Superintendent of Stamps. Stamps which are through any accident rendered unfit for issue at any time after receipt should be similarly returned to the Superintendent as soon as their unfitness is discovered. The necessary entries on account of stamps so returned should be made in the monthly statement (Rule 33), and in the *plus* and *minus* memoranda (Rule 35).

* For branch depôts the figures of the latest periodical return received at the local depôt showing details of stamp balances may be used for the purpose of calculating the total required for entry in each column.

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13. Immediately after the stamps received have been counted, they shall be placed in proper receptacles in the store under double lock, arranged in parcels or packets containing known quantities, the amount of each denomination being entered in a register maintained to shew the receipts and issues to and from the store under double lock.

14. The treasurer, or such other officer as the Local Government may direct, shall be the *ex-officio* vendor of all descriptions of stamps in each local depôt. Sales to the public or to licensed vendors shall not be made direct from the stores under double lock, such sales being made by the *ex-officio* vendor from the supply entrusted to him for this purpose to be kept by him under single lock, as prescribed in the following rules.

15. The stock to be made over to the *ex-officio* vendor to be kept by him under single lock should ordinarily be sufficient for the probable demand of one month. On a fixed date near the beginning of each month the *ex-officio* vendor shall prepare an indent for the quantity required for the month, in a form showing the balance in his hands, an average month's consumption, and the quantity required. When this indent is approved by the officer in charge, who should examine the balance under single lock, and ascertain that the quantities shown agree with the quantities shown in the indent, he shall give out the quantity required from the store under double lock. The same procedure shall be followed if any stamps should be required at any intermediate date. Local Governments may reduce the period of one month mentioned in this rule to one week or any other period less than a month, if they consider this desirable with reference to the amount of the treasurer's security or for any other reason.

16. From the stock so made over to his charge and kept by him under single lock, the *ex-officio* vendor shall sell stamps to the public and to licensed vendors for cash. He shall keep in such language as the Local Government may direct an account of the daily sales for each of the four descriptions of stamps in a form showing for each denomination the balance in his hand at the beginning of the day, the quantity sold during the day, and the balance in his hand at the end of the day. He shall pay daily into the treasury the cash received by him for stamps sold, the amount realized on account of each of the four descriptions of stamps—namely, General, Court fees, Postage, and Telegraph—being paid in separately. The account of daily sales should be inspected every day by the officer in charge of the depôt.

17. The rules regulating the grant of discount and the grant of licenses to licensed vendors for the sale of General and Court-fee stamps vary in different provinces, and are prescribed by Local Governments, subject to the general rule that no change in the rates of discount shall be made without the previous sanction of the Governor-General in Council.

18. Local Governments may direct that the sales to the public of General and Court-fee stamps by *ex-officio* vendors shall be limited to stamps of a value higher than a named amount, the sale to the public of stamps of lower value being left to licensed vendors.

19. Telegraph stamps shall be sold to the public for cash by the *ex-officio* vendors, provided that the quantity of stamps sold to one person at one time shall not be less in value than Rs. 5, and that the quantity sold shall not include less than one rupee worth of any particular denomination. On such sales no discount is allowed.

20. Telegraph Masters shall obtain supplies of Telegraph stamps from the local depôts, subject to the same conditions in regard to the quantity supplied at one time as those of the preceding rule, and shall sell to the public Telegraph stamps of all descriptions and to any value. No discount is allowed to Telegraph Masters for the sale of stamps; but they are allowed permanent advances of Telegraph stamps without payment, the amount of the permanent advance being fixed by the Director-General of Telegraphs. When the permanent advance of Telegraph stamps has once been taken, subsequent issues to Telegraph Masters are made only on cash payment. But when the local depôt is closed for holidays of more than one day's duration, officers in charge of local depôts are authorized to issue Telegraph stamps to Telegraph Masters without payment in excess of the value of the permanent advance, these temporary advances being adjusted when the treasury re-opens by the return of the stamps, or the payment of their value if sold.

21. Service postage stamps shall be sold for cash from local depôts to Government officials and to persons specially authorized to purchase and use service stamps on a written application. On such sales no discount is allowed.

22. Ordinary Postage stamps shall be sold to the public for cash from local depôts provided that the value sold to any person at one time shall not be less than Rs. 5, and shall not include any fraction of a rupee, and that embossed envelopes and post-cards shall be sold in complete packets only. No discount is allowed on such sales. Soldiers' envelopes are sold from certain selected local depôts only to Commanding Officers in complete packets, no discount being allowed.

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23. The officer in charge of every post office, receiving office, tahsil, thana, and police station at which letters are received for despatch, and every person licensed under the rules framed under the Stamp Act, 1879, to sell General stamps, are required to keep a supply of ordinary postage stamps for sale to the public sufficient for the probable demands of one week. To such persons ordinary postage stamps, except soldiers' envelopes, are sold from local depôts for cash on the same conditions as to quantity as those prescribed in the preceding rule; and on such sales discount at the rate of quarter of an anna in the rupee is allowed.

*"23 A. The officers in charge of post offices, receiving offices, tahsils, thánas and police stations at which letters are received for despatch are also required to keep a supply of one anna revenue stamps for sale to the public. To such officers one anna revenue stamps are sold from local depôts on the same conditions as to quantity as those prescribed in Rule 22. On such sales discount at the rate of one-half anna in the rupee is allowed."

*24. A District Officer may authorize the grant of discount at the rate of quarter of an anna in the rupee to any *bonâ fide* retail vendor of ordinary postage stamps, provided he is not employed in a Government Treasury. Such authority shall be in writing, and shall remain in force for one year. It may contain conditions in all or any of the following respects, namely, the maintenance of a sufficient supply of stamps of all or any specified denominations of postage stamps for retail sale; the sale of the stamps at one or more particular shops or places, and the prohibition of sales at other shops or places; and the days and hours of sale. The District Officer shall keep a register showing the name, residence and occupation of every person to whom he grants such authority.

25. Superintendents and Inspectors of Post Offices within their respective jurisdictions, and any other officers of the Post Office authorized on that behalf by the Postmaster-General or Deputy Postmaster-General, are empowered to examine the stock of postage stamps kept by any of the persons required or authorized to keep postage stamps for sale to the public under Rules 23 and 24.

### Branch Depôts.

26. Every subordinate, branch, or tahsil treasury shall be a branch depôt for the sale of stamps of all descriptions.

27. The sub-treasurer, or such other officer as the Local Government may direct, shall be the *ex-officio* vendor of stamps at a branch depôt.

28. The officer in charge of the branch depôt shall obtain his supplies from the local depôt to which the branch depôt is subordinate in the same manner as the *ex-officio* vendor at the local depôt obtains his supplies, except that the indent and the stamps must be sent by post or messenger to and from the local depôt; and that the examination of the balance in hand and the comparison of the amounts shown with those shown in the indent shall be done by the officer in charge of the branch depôt.

The *ex-officio* vendor shall obtain his supplies from the officer in charge of the branch depôt in the same manner as the *ex-officio* vendor at the local depôt obtains his supplies from the officer in charge.

29. The supply to be kept in a branch depôt should be equal to the probable demand for three months; but Local Governments may direct that the supply shall be equal to the demand of any other period instead of three months which they may consider expedient. The stock should be kept up to this amount by indenting and obtaining supplies from the local depôt from time to time as may be necessary.

30. Local Governments shall fix the period a supply sufficient for which shall be kept under single lock by the *ex-officio* vendor, and the remainder of the stamps in the branch depôt shall be kept under double lock of the officer in charge of the branch depôt and of the *ex-officio* vendor, and given out to single lock as required.

31. Sales from branch depôts will be made subject to the same rules as those from local depôts.

### Returns to and by the Superintendent of Stamps and Accountants-General.

32. On the last open day of September and March each year, the officer in charge of each local depôt will count, or have counted in his presence, the stamps in the depôt, both those under double lock and those under single lock, and will require the officers in charge of the branch depôts subordinate to him similarly to count the stamps in the branch depôt. He will attach to the monthly statements for September and March rendered to the Superintendent of Stamps, Madras, Bombay or Calcutta, a certificate in the following form:—

"I do hereby certify that I have personally examined and counted, or had counted in my presence, the stamps of all descriptions in store in this local depôt on the $\frac{\text{September}}{\text{March}}$ 18 and

* This rule has been amended by Punjab Government Notification No. 691, dated 4th April 1888, *Punjab Gazette* of 5th idem, Part I, page 366.

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| | | Rs. |
|---|---|---|
| General | ... | |
| Court-fees | ... | |
| Telegraph | ... | |
| Postage | ... | |

found the value of each description to be as stated in the margin. Also that I have received certificates from the officers in charge of the subordinate branch depôts that they have similarly counted the stamps in the branch depôts on the last day of the month of September/March of which the accounts are incorporated in the Head Treasury accounts, and that these certificates show the value of each description of stamps to be as stated in the margin. †

| | | Rs. |
|---|---|---|
| † General | ... | |
| Court-fees | ... | |
| Telegraph | ... | |
| Postage | ... | |

" The total values of stamps in this depôt and the branch depôts, as found by the above certified examination, are therefore—

| | | | | Rs. |
|---|---|---|---|---|
| General | ... | ... | ... | ... |
| Court-fees ‡ | ... | ... | ... | ... |
| Telegraph | ... | ... | ... | ... |
| Postage | ... | ... | ... | ... |

which amounts agree with the balances shown in the monthly statement for September/March to which this certificate is attached." *If there is any difference, add* " with the exception of the following differences :—

_____ the explanation of which is as follows" :—

33. Monthly statements showing the receipts and issues of each local depôt, including the transactions of the subordinate branch depôts, shall be prepared by the officer in charge of the local depôt, and forwarded in the first week of the succeeding month to the Superintendent of Stamps, Madras, Bombay or Calcutta, separate statements being prepared for General stamps, Court-fee stamps, Telegragh stamps and Postage stamps.

These statements shall show for each denomination of stamp the values of the balance in hand at the beginning of each month, of the quantities received from the Superintendent of Stamps or other officer during the month, of the quantity sold during the month, and of the balance in hand at the end of the month. These statements may be forwarded to the Superintendent of Stamps, Madras, Bombay or Calcutta, either direct, or, if the Local Government so order, through any officer named by the Local Government.

34. These statements shall be checked by the Superintendents of Stamps by comparison with previous statements and the accounts of the central depôt, and shall be used by them to check indents and to watch the balances in the local depôts.

35. Treasury Officers and other Officers in charge of local depôts shall forward to the Accountant-General or Comptroller such returns of the receipts and sales of stamps as the Comptroller-General may direct, in the form of Plus and Minus Memoranda or otherwise.

36. The Superintendents of Stamps, Madras, Bombay and Calcutta, shall send to the Accountant-General or Comptroller such accounts of the transactions of the central and local depôts as the Comptroller-General may prescribe.

37. They shall also every six months intimate to the Accountant-General or Comptroller for comparison with the amounts shown in the returns received from treasuries and other local depôts under Rule 35 the receipt of the certificates prescribed in Rule 32, and the amount of stock certified to be in balance in each local depôt.

38. The Comptroller-General shall prescribe such rules as he considers necessary for the disposal of the accounts mentioned in the foregoing rules, and for the check of the receipts, issues and sales.

39. The Local Governments of Madras, Bombay and Bengal shall arrange for a periodica verification by counting of the stock of stamps in the respective central depôts. The verification shall be carried out in the manner and form to be prescribed by the Comptroller-General to whom the result will be reported.

40. The Superintendents of Stamps, Madras, Bombay and Calcutta, shall forward ever month to the Directors-General of Telegraphs and of the Post Office, statements showing th balances and receipts in the central depôt and the issues to each local depôt of Telegraph and Postage stamps, respectively, during the month. They shall also send monthly to the Comptroller, Post Office, a statement of the sales during the past month of the several denominations of Postage stamps in the local and branch depôts subordinate to them. The Accountant-General or Comptroller will, with his monthly account current with the Examiner of Telegraph Accounts, forward a statement showing the total realization at each treasury from the sales of Telegraph stamps during the month.

‡ Stamps for copies are included under Court-fee stamps.

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2. The Hon'ble the Lieutenant-Governor adopts these rules for observance in the Punjab with the modifications and additions hereinafter set forth, and such portions of them as apply to General and Court-fee stamps are issued under the authority given by Section 55 of the Indian Stamp Act of 1879 and by Section 27 of the Court Fees Act of 1870, respectively.

3. In lieu of Rules 7, 8 and 9 the following shall be substituted :—

"*Rule* 7 —Each local depôt, except those at Lahore, Delhi, Mooltan and Rawalpindi, shall maintain a supply of stamps not being less than the probable consumption of three nor more than the probable consumption of twelve months. For Lahore the minimum shall be twelve and the maximum twenty-four months' consumption ; and for Delhi, Mooltan and Rawalpindi the minimum shall be nine and the maximum eighteen months' consumption."

"*Rule* 8.—In preparing the monthly statements prescribed in Rule 33 the officer in charge of the local depôt shall take notice of the balance in hand, and if the balance of any denomination or description of stamps is found to approach the minimum as set forth in Rule 7, an indent for a quantity equal with the balance in hand to the minimum should accompany the monthly statements aforesaid. The indent shall show in separate columns for each denomination and description of stamp the balance in hand (including balances in subordinate branch depôts), the quantity sold during the preceding six months, and the quantity indented for. This indent shall be sent by the officer in charge of the local depôt to the local Superintendent of Stamps, who shall scrutinize it and see that it is prepared in accordance with the foregoing instructions. If it is so prepared, he shall countersign the indent and transmit it for compliance to the Superintendent of Stamps, Calcutta ; if it is not so prepared, he may alter it before countersignature and transmission as above, or he may return it for amendment or explanation."

"*Rule* 9.—If the supply of stamps in any depôt should from any cause run short, the officer in charge should submit an emergent indent for the quantity required for immediate wants to the local Superintendent of Stamps, who may direct any local depôt which can conveniently do so to comply with such emergent indent, or he may countersign it and transmit it for compliance to the Superintendent of Stamps, Calcutta."

4. When an officer in charge of a local depôt returns any stamps to the Superintendent of Stamps, Calcutta, under Rule 12 of the aforesaid rules as unfit for issue, he shall give immediate intimation thereof to the local Superintendent of Stamps.

5. With reference to No. 29 of the rules, the supply of stamps to be kept in a branch depôt shall be so regulated that ordinarily the balance shall not be less than sufficient for one month's nor more than sufficient for two months' average consumption.

6. The monthly statements prescribed in No. 33 of the rules shall be prepared in duplicate, and shall be forwarded by officers in charge of local depôts to the local Superintendent of Stamps, who shall carefully scrutinize them ; and if they are correct he shall countersign and transmit one copy thereof to the Superintendent of Stamps, Calcutta, and retain the other copy in his own office.

7. Save as is herein otherwise provided, all existing rules made by competent authority relating to the supply, custody or distribution of stamps and not inconsistent with these rules shall remain in force.

(*Punjab Government Notification No* 1387, *dated* 27*th June* 1887, *Punjab Gazette of* 30*th idem, Part I, p.* 325).

See Stamp Circular No. 9 of 1887.

(*dd*).—The following Resolution of the Government of India, in the Department of Finance and Commerce, is re-published for general information :—

No. 1114.

GOVERNMENT OF INDIA.

DEPARTMENT OF FINANCE AND COMMERCE.

SEPARATE REVENUE.

Stamps.

Non-judicial.

Sale and Supply of Stamps.

*Calcutta, the* 25*th February* 1884.

Read—

A letter from the Government of Bengal, No. 74, dated 12th December 1883.

RESOLUTION.—By Financial Notification No. 3908, dated 19th June 1874, the Government of India prescribed the use under the General Stamp Act of the locally made bi colour (blue and black) non-judicial stamps, as well as of the impressed stamps of new designs manufactured in England.

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2. As it is desirable that the new stamps should now be exclusively used, His Excellency the Governor-General in Council desires that the public may be informed that impressed non-judicial stamps of the new design will be issued in exchange for unused bi-colour stamps of equal value by Treasury Officers, on application being made to them within three months from the date of the publication of notice to that effect in the local Gazettes.

(*Punjab Government Notification No.* 733, *dated* 17*th March* 1884, *Punjab Gazette of* 20*th idem, Part I, p.* 296).

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(*e*). The following exemptions have been notified by the Government of India under S. 8 of the Act:

1. The duty with which bills of exchange and cheques drawn in Mysore, on which the full rate of stamp duty has been paid there, are chargeable under S. 5, Clause (*b*) of the Act has been remitted in the whole of British India.—(*No* 1083, *dated* 6*th June* 1879).

2. A similar exemption is allowed with regard to bills of exchange and cheques drawn in Hyderabad Assigned Districts—(*No.* 1191, *dated* 13*th June* 1879), and the cantonment of Secunderabad—(*No.* 1200, *dated* 20*th June* 1879).

3. The Stamp duty payable on receipts given by mounted Police constables on account of their pay and allowances has been remitted.—(*No.* 1174, *dated* 15*th March* 1880).

4. Also receipts given by the addressee for deposits exceeding Rs. 20 made for the payment of replies to telegraphic messages.—(*No.* 1410, *dated* 27*th March* 1880).

5. The duty payable under the Act on all Instruments in the nature of a Memorandum or Agreement furnished to, or made or entered into with, Executive Commissariat Officers by Contractors; and also on all Declarations or Agreements by which a tender made to an Executive Commissariat Officer is accepted as a contract, when the deposit of such Contractor as security for his contract is made in Government of India Loan Notes, or in cash, has been remitted.—(*No.* 444, *dated* 8*th May* 1880).

6. The stamp duty, if any, payable on receipts endorsed by the payee on Postal Money Orders has been remitted.—(*No.* 731, *dated* 22*nd May* 1880).

7. The stamp duty with which an instrument of gift of shares in a company or association is chargeable under the Act has been reduced to the duty prescribed in Article 60 (*a*), Schedule I of the Act, for a transfer of such shares for a consideration equal to their value, as set forth in such instrument of gift.—(*No.* 1379, *dated* 26*th June* 1880).

8. Agreements with Railway Companies or Administrations for the conveyance of goods, and receipts given by such Companies or Administrations for fares for conveyance of passengers or goods, or both, or animals, are exempted.—(*No.* 2329, *dated* 14*th August* 1880).

9. In continuation of the above, all agreements with Railway Companies or Administrations which purport to limit the obligations or responsibilities of such Railway Companies or Administrations as carriers under the Indian Contract Act, 1872, Sections 151 and 161, and are in a form approved by the Governor-General in Council under Section 10 of the Indian Railway Act, 1879, are exempted.—(*No.* 3715, *dated* 13*th October* 1880).

10. The Stamp-duty chargeable under the Act on instruments executed by Government officers, and their sureties, either before or after the publication of this order, to secure the due accounting for property received by such officers by virtue of their office, has been exempted.—(*No.* 2778, *dated* 2*nd September* 1881).

11. The stamp duty payable on leases or counterparts thereof executed at the time of Settlements made directly by Government with existing occupants of lands, whether zemindars or tenants, and whether self-cultivating or not, provided that no fine or premium is paid in consideration of such lease, has been exempted.—(*No.* 2967, *dated* 9*th September* 1881).

The above to have retrospective effect in respect of Ilam leases granted previous to the publication of the Notification under the Ilam rules to occupants of land taken for the cultivation of tea in the Sylhet district of Assam.—(*No.* 1480, *dated* 2*nd June* 1882).

12. The stamp duty on receipts given by, or on behalf of, depositors in Post Office Savings Banks for sums of money withdrawn from such Banks in all cases in which, but for this exemption, such receipts would be liable to stamp duty, is remitted.—(*No.* 4162 *dated* 11*th November* 1881).

13. The stamp duty chargeable on renewal or sub-division of debentures of Port of Bombay Loan of March and April 1880, has been remitted.—(*No.* 1845, *dated* 8*th December* 1881).

14. Also the stamp duty payable on bills of exchange drawn quarterly by the Government of Portuguese India for the money payable to that Government under Art. XV of the Anglo-Portuguese treaty.—(*No.* 279, *dated* 14*th April* 1882).

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15. Also the duty payable on all agreement papers passed by Commissariat contractors when their security deposits are transferred to a Savings Bank.—(*No.* 329, *dated* 14*th April* 1882).

16. Also the duty (if any) chargeable on copies of, or extracts from baptismal, marriage, or burial registers certified by Government Chaplains, subsidised or unsubsidised Clergymen or Diocesan Registrars, and granted to—

(1) soldiers, sailors, or non-commissioned or petty officers;

(2) or persons in needy circumstances, in whose favour Chaplains may exercise the discretionary power vested in them by Rule IX of the Ecclesiastical Fee Rules published on the 29th September 1869, and may grant exemption from the payment of fees under Rule IV of those rules.—(*No.* 1603, *dated* 5*th June* 1882).

17. Also in the whole of British India the duty chargeable under the Act on Bills of Lading executed out of British India and relating to property to be delivered in British India.—(*No.* 1733, *dated* 16*th June* 1882).

18. The Governor-General in Council has also remitted, in the whole of British India, the stamp duty payable under the Act on all instruments in the nature of a memorandum or agreement furnished, or made or entered into with, the Ordnance Department by Contractors for the due performance of their contract.—(*No.* 1150, *dated* 30*th May* 1883).

19. The Governor-General in Council has directed that the stamp duty payable on an Instrument of Partition of land held on Settlement for a period not exceeding 30 years and paying the full assessment to Government, shall not exceed the amount payable on a valuation of the land at five times the annual revenue.—(*No.* 1381, *dated* 8*th June* 1883).

20. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to remit the stamp duty payable on receipts given by or on behalf of depositors in District Savings Banks for sums of money withdrawn from such Banks in all cases in which, but for this exemption, such receipts would be liable to stamp duty.—(*Government of India No.* 2796, *dated* 24*th August* 1883, *Gazette of India of* 25*th idem*).

21. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to remit the stamp duty payable on receipts given by or on behalf of depositors in Presidency Savings Banks and State Railway Savings Banks for sums of money withdrawn from such Banks in all cases in which, but for this exemption, such receipts would be liable to stamp duty.—(*No.* 3624, *dated* 5*th October* 1883, *Gazette of India of* 6*th idem*).

22. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Hon'ble the President in Council is pleased to remit the stamp duty payable on receipts given by or on behalf of depositors in the East Indian Railway Savings Bank, for sums of money withdrawn from the Bank in all cases in which, but for this exemption, such receipts would be liable to stamp duty.—(*No.* 786, *dated* 8*th February* 1884, *Gazette of India of* 9*th idem*).

23. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council has reduced to annas eight the stamp duty payable under Article 50 (*b*), Schedule I, appended to the said Act, on a Power-of-Attorney required in suits or proceedings under the Presidency Small Cause Courts Act, 1882.—(*No.* 3887, *dated* 19*th October* 1883, *Gazette of India of* 20*th idem*).

24. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to exempt from the stamp duty payable under the Act the policies of life insurance and the contracts for monthly allowances granted by the Director-General of the Post Office of India in accordance with the Rules for Postal Life Insurance and Monthly Allowances issued under the authority of the Government of India.—(*Government of India No.* 123, *dated* 4*th April* 1884, *Gazette of India of* 5*th idem*).

25. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to reduce to one anna the stamp duty payable, under Article 50 (*b*) of Schedule I of the said Act, on a proxy executed by a female empowering any person to vote at any one election of members of a Local Board held under the provision of Bombay Act I of 1884 (The Bombay Local Boards Act, 1884).—(*No.* 4409, *dated* 7*th November* 1884, *Gazette of India of* 8*th idem*)

26. In exercise of the powers conferred on him by Section 8 of the Indian Stamp Act, 1879, His Excellency the Governor-General in Council is pleased to remit the stamp duty payable under that Act on debenture bonds issued by a Joint Stock Company under the terms of a mortgage deed, making over in whole or in part the property of the Company to trustees for the benefit of the debenture-holders, and on interest coupons attached to the said debentures.—(*No.* 1946, *dated* 3*rd December* 1884, *Gazette of India of* 6*th idem*).

27. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to remit the duties with which instruments executed for the purpose of securing the repayment of loans made or to be made under the Agriculturists Loans Act, 1884, are chargable.—(*No.* 165, *dated* 10*th April* 1885, *Gazette of India of* 11*th idem*).

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28. Financial Notification No. 1909, dated 3rd December, 1884, is hereby cancelled, and in exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to remit the stamp duty payable under the Act on sanads of jagirs and other documents conveying lands granted to individuals by Government otherwise than for a pecuniary consideration.—(*No.* 1206, *dated 3rd June* 1885, *Gazette of India of 6th idem*).

29. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to direct that the stamp duty chargeable on an instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage, shall, when the loan is repayable within the period specified in clause (*a*) or in clause (*b*) of Article 29 of Schedule I of the said Act, be limited to the duty chargeable under clause (*a*) or under clause (*b*), as the case may be, of that article.—(*No.* 1280, *dated 5th June* 1885, *Gazette of India of 6th idem*).

30. Whereas, under the terms of Notification in the Department of Finance and Commerce, No. 3646, dated 13th November 1880, the Municipality of Simla has paid into the Government Treasury the sum of Rs. 750 as composition for the stamp duty chargeable on a sum of Rs. 1,50,000 which the said Municipality was authorised to borrow for the construction of a Town Hall at Simla, and of which a sum of Rs. 1,04,100 has been raised by the issue of the undermentioned debentures, namely :—

* * * * * * * *

Therefore, in exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council has exempted the above-mentioned debentures from payment of any stamp duty with which they might otherwise be chargeable, whether on issue, renewal or sub-division.—(*No.* 1514, *dated 20th June* 1885, *Gazette of India of 27th idem*).

31. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to remit the stamp duty payable under the said Act on the letter which a person depositing money in a District Savings Bank or Post Office Savings Bank as security to the Government or a local authority for the due execution of an office or for the fulfilment of a contract or for any other purpose, is required by the rules of the Savings Banks to address to the Secretary to the District Savings Bank or the Postmaster in charge of the Post Office Savings Bank agreeing to special conditions with respect to the application and withdrawal of the money deposited and the payment of interest accruing due thereon.

2. "Local authority" in this notification means a municipal committee, district board, body of Port Commissioners, or other authority legally entitled to or entrusted by the Government with the control or management of a municipal or local fund.—(*No.* 3673, *dated 23rd October* 1885, *Gazette of India of 24th idem*).

32. Whereas a doubt has been expressed as to the proper stamp duty chargeable under the Indian Stamp Act, 1879, on a charter-party containing a penalty clause, and it is desirable that the doubt should be removed, the Governor-General in Council, in exercise of the powers enabling him in that behalf, is pleased to direct that the stamp duty chargeable on a charter-party shall, notwithstanding anything contained in the instrument as to the payment of compensation in case of breach of the contract evidenced thereby, be limited to the amount chargeable under the Indian Stamp Act, 1879, Schedule I, Article 18.—(*No.* 453, *dated 29th January* 1886, *Gazette of India of 30th idem*).

33. In exercise of the powers conferred on him by Section 8 of the Indian Stamp Act, 1879, the Honourable the President in Council is pleased to remit, both prospectively and retrospectively, in the whole of British India, the Stamp duty with which a deed of dower executed on the occasion of a marriage between Muhammadans is chargeable.—(*No.* 835, *dated 19th February* 1886, *Gazette of India of 20th idem*).

34. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Honourable the President in Council is pleased to reduce to a fixed duty of one rupee the stamp-duty payable under the said Act on any re-insurance effected by an Insurance Company, which has granted a policy of insurance against loss by fire, with another Company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.—(*No.* 1044, *dated 5th March* 1886, *Gazette of India of 8th idem*).

35. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to remit the stamp duty payable under the said Act on agreements executed under Section 35 (1) of the Indian Emigration Act, 1883.—(*No.* 1411, *dated 1st April* 1886, *Gazette of India of 3rd idem*).

36. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to remit the stamp duty payable under the said Act on agreements made under Section 9 (2) of Act II of 1886.—(*No.* 246, *dated 16th April* 1886, *Gazette of India of 17th idem*).

37. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, His Excellency the Governor-General in Council is pleased to reduce to a fixed duty of one rupee the stamp duty payable under the said Act on any re-insurance effected by an Insurance

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Company, which has granted a policy of sea-insurance, with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.—(*No.* 513, *dated* 1*st February* 1887, *Gazette of India of* 5*th idem*).

38. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to remit the duty payable under the said Act on Indemnity Bonds or agreements given to Railway Authorities by Consignees (when the Railway receipt is not produced) in respect of the delivery of articles carried at half parcels rates, *i. e.*, fresh fish, fruits, vegetables, bazar baskets, bread, meat, rice and other perishables—(*No.* 4741, *dated* 3*rd September* 1887, *Gazette of India of* 10*th idem, Part I, p.* 458).

39. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to remit the stamp duty payable under the said Act on all instruments in the nature of a Memorandum or Agreement furnished to, or made or entered into with, the Army Clothing Department by contractors for the due performance of their contracts.

This Notification extends to the whole of British India.—(*No.* 6464, *dated* 7*th December* 1887, *Gazette of India of* 10*th idem, Part I, p.* 909).

40. In exercise of the powers conferred by Section 8 of the Indian Stamp Act, 1879, the Governor-General in Council is pleased to remit the stamp duty payable by private persons under Section 29 (*f*) of the Act on instruments of exchange executed by them when lands are given by them for public purposes in exchange for other lands granted to them by Government. —(*No.* 6501, *dated* 8*th December* 1887, *Gazette of India of* 10*th idem, Part I, p.* 909).

(*f*). For rules for the custody, replenishment of stock and accounts of stamps, see Stamp Circular No. 4 of 1884.

See also Stamp Circulars No. 5 and 16 of 1884, and (as regards refunds) No. 11 of 1885.

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## ACT No. III of 1879.

(*Passed on the* 8*th March* 1879).

An Act to authorize the destruction of Useless Records.

Preamble.

Whereas it is expedient to provide for the destruction or other disposal of useless records, books, and papers in Courts and Revenue-offices; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Destruction of Records Act, 1879":

Local extent.

it extends to the whole of British India;

Commencement.

and it shall come into force at once.

Power to High Court to make rules for disposal of records, &c.

2. The High Court may, from time to time, make rules respecting the disposal, by destruction or otherwise, of such records books, and papers belonging to or being in the custody of such High Court, or the Courts of civil and criminal jurisdiction subordinate thereto, as the High Court may consider useless or unworthy of being permanently preserved.

So far as regards his own Court, the Court of Small Causes in Rangoon, and the Courts of the Magistrates within the local limits of his ordinary civil jurisdiction, the Recorder of Rangoon shall for the purposes of this section be deemed to be a High Court.

Similar power to Presidency High Courts with respect to documents in Insolvency Courts and Administrator-General's office.

3. Each of the High Courts of Judicature of Fort William, Madras, and Bombay may, from time to time, make rules respecting the disposal, by destruction or otherwise, of such records, books, and papers belonging to or being in the custody of—

(*a*) the local Courts for the relief of Insolvent Debtors held under the provisions of the eleventh and twelfth of Victoria, chapter twenty-one,

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(*b*) the local Administrator-General,

as the High Court may, consider useless or unworthy of being permanently preserved.

Similar power to Chief Controlling Revenue-Authority.

4. The Chief Controlling Revenue-Authority may, from time to time, make rules respecting the disposal, by destruction or otherwise, of such records, books, and papers belonging to or in the custody of the Revenue Courts and offices as it may consider useless or unworthy of being permanently preserved.

Rules when to have force of law.

5. All rules made under this Act shall, after being confirmed by the Local Government and sanctioned by the Governor-General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

NOTE.—The rules framed by the Chief Court and confirmed under this section are given at the end of the Act.

Validation of rules as to destruction of documents.

6. All rules and orders heretofore made by a Local Government, a High Court, or Chief Controlling Revenue-Authority for the destruction or other disposal of useless records, books, and papers belonging to or in the custody of any Court or Revenue-office, shall be deemed to have had the force of law from the date on which they were made, and all such rules now in force shall continue to have the force of law until they are rescinded by rules made under this Act; and no suit or other proceeding shall be instituted, maintained, or continued against any person for the disposal, by destruction or otherwise, of any records, books, or papers in accordance with any such rules or with any order made by a Local Government, High Court, or Chief Controlling Revenue-Authority.

Bar of suits.

Interpretation-clause.

7. In this Act "Chief Controlling Revenue-Authority" means in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces—the Board of Revenue: in the Presidency of Bombay, outside Sind and the limits of the town of Bombay—a Revenue Commissioner: in Sindh—the Commissioner: in the Punjab and Burma—The Financial Commissioner; and elsewhere—the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf by name or in virtue of his office.

NOTE.—The words "and Burma" have been inserted by Act XVIII of 1888.

Saving of documents kept under provision of law.

8. Nothing herein contained shall be deemed to authorize the destruction of any document which, under the provisions of any law for the time being in force, is to be kept and maintained.

Repeal of enactments.

9. The enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column.

THE SCHEDULE.

(*See Section 9*).

ENACTMENTS REPEALED.

(*a*).—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

| Number and year. | Subject or short title. | Extent of repeal. |
|---|---|---|
| XX of 1875 ... | The Central Provinces Laws Act, 1875 ... | In section eight, clause (*c*), the last twenty-one words. |
| XVIII of 1876 ... | The Oudh Laws Act, 1876 ... ... ... | In section thirty-nine, clause (*e*), the last eighteen words. |

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SCHEDULE—(*continued*).

(*b*).—ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

| Number and year. | Subject or short title. | Extent of repeal. |
|---|---|---|
| VI of 1865 ... | To authorize the destruction of Useless Records in certain Courts of the Bombay Presidency.. | The whole. |
| V of 1869 ... | To authorize the destruction of Useless Records in the Courts of the Province of Sind. | The whole. |

(*c*).—REGULATION UNDER 33 VIC., C. 3.

| Number and year. | Subject or short title. | Extent of repeal. |
|---|---|---|
| III of 1877 ... | The Ajmer Laws Regulation, 1877 ... | In section forty, clause (*c*), the last twenty-one words. |

NOTES.—(*a*). RULES FOR THE DESTRUCTION OF USELESS JUDICIAL RECORDS AND REGISTERS IN COURTS SUBORDINATE TO THE CHIEF COURT (ACT III OF 1879, SECTION 5).

Rules under Act III of 1879.

The following rules, framed by the Judges under the provisions of Section 5 of Act III of 1879, have been sanctioned by the Governor-General in Council and confirmed by His Honor the Lieutenant-Governor.

Circumstances under which Munsifs may be employed on the work of destruction.

2. With reference to the note to Rule II, the Judges will always be prepared to conside any application that may be made to them for the services of a Munsif, when it can be shown that the work of destroying obsolete judicial records and registers cannot be otherwise properly supervised ; but the application must be made in *good time* and must explain *why an officer of the head-quarters staff cannot be employed on the duty*. This last condition is rendered indispensable by the rules which now regulate the grant of privilege leave to Munsifs.

Work should be proceeded with every year.

3. It should also be remembered that it is of great importance that the work of destruction should be regularly proceeded with *each* September.

RULES FOR DESTRUCTION OF USELESS JUDICIAL RECORDS AND REGISTERS IN COURTS SUBORDINATE TO THE CHIEF COURT.

*General.*

Obsolete records and registers to be destroyed annually.

I.—All judicial records and registers which, by the lapse of a year, have become liable to destruction under the following rules shall be destroyed during the month of September in each year.

How to be destroyed and disposed of.

II.—The destruction of such records and registers shall be carried out under the supervision of a responsible officer not below the rank of Munsif, and shall be effected by tearing and soaking in water, care being taken that all Court-fee stamps have been duly cancelled. The paper shall then be sent to the Superintendent of the nearest district jail, who will purchase it at its market value, and return the bill drawn by the office from which the purchase is made duly contersigned for transmission to the Accountant-General. The latter will place the sum to the credit of the Record Office Fund in the public accounts.

NOTE.—No Munsif shall be deputed to supervise the annual destruction of records and registers in a district office, except with the previously obtained sanction of the Chief Court. Such permission must be applied for through the Divisional Judge in sufficient time to allow of orders being passed before the commencement of the September vacation, and will be granted only when it can be shown to the Court's satisfaction that no other suitable officer is available for the duty.

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*Records.*

Files.

III.—All civil and criminal records shall be arranged in separate files, A and B.

Arrangement of civil records.

IV.—In the case of civil records, File A shall contain the following papers :--

(*a*). In original cases heard by any Court other than a Court of Small Causes :—

1.—The index of papers.

2.—The order sheet or chronological abstract of orders.

3.—The plaint together with any schedule annexed thereto, and all documents, whether original or copies, filed with the plaint.

NOTE.—In miscellaneous cases, the petition or written application of the party setting the Court in motion will take the place of the plaint.

4.—The written statements and pleadings of the parties.

5.—Applications of parties who are strangers to the suit with the Court's orders thereon.

6.—The memorandum of issues, with amended or additional issues, if any.

7.—All depositions of witnesses.

8.—All documents received by the Court during the trial as evidence between the parties.

9.—Commissions, proceedings held thereunder, and reports of Commissioners.

10.—Reports furnished by the Record Department.

11.—Applications to refer to arbitration, references to arbitration, the award or other final return of the arbitrators, with the proceedings, depositions and documents submitted therewith, and any application to set aside the award, with the Court's orders thereon.

12.--Deeds of withdrawal, compromise or confession of judgment.

13.—Orders of arrest or attachment before judgment, with all documents relating thereto.

14.—The judgment or other final order.

15.—The decree.

16.—All notes in the hand-writing of the Judge.

17.—Applications for review of judgment with the Court's orders thereon.

18.—Judgments and decrees of appellate Courts, if any.

19.—All orders passed in execution proceedings, with all applications, objections, writs of which service has been effected, notices, reports and returns relating thereto.

20.—All receipts and acknowledgments filed in execution proceedings.

(*b*).—In cases heard by a Court of Small Causes :—

1.—The index of papers.

2.—The order sheet or chronological abstract of orders.

3.—The plaint with the papers annexed thereto.

4.—Any cross claim set up by the defendant by way of set-off.

5.—All documents received by the Court during the trial as evidence between the parties.

6.—Any award of arbitrators, or deed of withdrawal, compromise or confession of judgment.

7.—The judgment or other final order.

8.—The decree.

9.—All notes in the hand-writing of the Judge.

10.—Any application for review of judgment, or for a new trial under Section 21 of Act XI of 1865, with the Court's order thereon.

11.—Any order passed by the Chief Court as a Court of reference, or revision.

12.—All orders passed in execution proceedings, with all applications, writs of which service has been effected, notices, reports and returns relating thereto.

13.—All receipts and acknowledgments filed in execution proceedings.

(*c*). In appeal cases—

1.—The index of papers.

2.—The order sheet or chronological abstract of orders.

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3.—The petition of appeal.

4.—Copies of judgments and decrees of lower Courts.

5.—Any cross-objection filed by the respondent under Section 561 of the Civil Procedure Code.

6.—Issues referred for trial by the appellate Court, with the evidence and findings thereon.

7.—Commissioners' proceedings held thereunder and reports of Commissioners.

8.—Any additional evidence, oral or documentary, admitted by the appellate Court under Section 568, Civil Procedure Code.

9.—Applications to the appellate Court to refer to arbitration, references, the award or other final return of the arbitrators with the proceedings, depositions and documents submitted therewith, and any applications to set aside the award, with the Court's orders thereon.

10.—Deeds of withdrawal, compromise or confession of judgment.

11.—The judgment or other final order.

12.—The decree of the appellate Court.

13.—All notes in the hand-writing of the Judge.

14.—Applications for review of judgment, with the Court's orders thereon.

15.—Any judgment and decree of a superior Court of appeal.

File B shall consist of all papers not included in File A.

Arrangement of criminal records.

V.—In the case of criminal records File A shall contain the papers noted below :

(*a*). In original cases tried by a Court of Session :—

1.—The index of papers

2.—The order sheet or chronological abstract of orders.

3.—The charge, original and as amended by the Sessions Judge.

4.—All depositions of witnesses and statements of accused persons, including depositions and statements transferred from the file of the committing Magistrate.

5.—All documentary evidence.

6.—The final order.

7.—The finding of the assessors or verdict of the jury.

8.—All notes in the hand-writing of the Judge.

9.—The judgment of the appellate Court, if any.

10.—Any order passed by the Chief Court as a Court of reference or revision.

11.—Warrants returned after execution of sentence.

12.—All proceedings, relating to the realization of fines.

(*b*). In Magisterial inquiries and trials :—

1.—The index of papers.

2.—The order sheet or chronological abstract of orders.

3.—The final police report *(chalan)*, or petition of complaint.

4.—All depositions of witnesses and statements of accused persons.

5.—All documentary evidence.

6.—The charge, where a formal charge is drawn up.

7.—The final order of the Court.

8.—All notes in the hand-writing of the Magistrate.

9.—The order of the Sessions Judge in cases referred for confirmation under Section 34 of the Criminal Procedure Code.

10.—The judgment of the appellate Court, if any.

11.—The judgment of the Chief Court in revision, if any.

12.—Warrants returned after execution of sentence.

13.—All proceedings relating to the realization of fines.

14.—Bonds for good behaviour taken under Section 110 of the Code of Criminal Procedure.

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(c). In appeal cases :—

1.—The index of papers.

2.—The order sheet or chronological abstract of orders.

3.—The petition of appeal.

4.—Copy of the judgment of the lower Court.

5.—Any additional evidence taken under Section 428 of the Criminal Procedure Code.

6.—The final order of the Court.

7.—All notes in the hand-writing of the Judge.

File B shall consist of all papers not included in File A.

Records to be preserved in perpetuity.

VI.—The following records shall be preserved in perpetuity :—

1.—File A of all suits and appeals involving the title to immoveable property, as defined in Section 2, clause 5 of Act I of 1868.

NOTE.—In suits for arrears of rent, or for a share in the produce when the right is not disputed and only the amount contested, clause I of Rule X. will apply.

2.—File A of all suits and appeals relating to the succession to an office, or to establish or set aside an adoption, or otherwise determine the status of an individual, and of all suits and appeals relating to trusts or religious endowments.

3.—Records of attachment, sale and delivery of immoveable property in execution of decrees, including all objections, proceedings and orders thereon.

4.—File A of proceedings under Section 7 and 8 of Regulation XVII of 1806.

5.—File A of proceedings under Acts XIX of 1841, XXXV and XL of 1858, XXVII of 1860, IX of 1861, X of 1865, and of all cases connected with the custody and disposal of intestate property.

6.—File A of proceedings under the Indian Divorce Act, IV of 1869.

7.—Records relating to the disposal of immoveable property forfeited to Government under Section 62 of the Indian Penal Code.

8.—Correspondence with other offices on matters connected with the administration of justice, including annual reports and the statements appended thereto : provided that Heads of offices may, with the previous sanction of the Divisional Judge, order the destruction, after three years, of any correspondence of a merely formal or ephemeral character, after personally satisfying themselves, in regard to each paper ordered to be destroyed, that its retention is no longer necessary.

NOTE.—A list of all papers which it is proposed to destroy under this clause must be prepared, and in the case of a subordinate office, be submitted to the Divisional Court for sanction. This list will be preserved in perpetuity.

Records to be preserved for fifty years.

VII.—The following records shall be preserved for 50 years, and then be destroyed :—

1.—Records of Insolvent Estates Courts exercising jurisdiction under Section 22 of the Punjab Laws Act, 1872.

2.—File A of cases relating to any of the offences specified in Section 44 of the Criminal Procedure Code, as offences of which all persons are bound to give information, in which any of the suspected persons have escaped apprehension : provided that, whenever it is known that the offender or offenders on whose account such records are kept are dead, the records may be destroyed.

3.—File A of criminal cases in which the offence is punishable with death, and it is not known who the offender is.

NOTE.—The records specified in clauses 2 and 3, when the time comes when under ordinary circumstances they would be liable to destruction, shall be removed to a separate bundle of cases of absconding and unknown offenders.

4.—File A of criminal cases in which a lunatic is concerned, unless the lunatic shall have been subsequently tried or have died.

Records to be preserved for twenty years.

VIII.—The following records shall be preserved for 20 years and shall then be destroyed, unless their preservation is necessary on any of the special grounds noted below :—

1.—File A of Sessions cases : provided that, if the sentence has not been fully executed the record shall be preserved until the return of the warrant, and then destroyed.

2.—The charge, finding, and sentence in cases in which conviction has been had of an offence for which enhanced punishment is provided on a second or subsequent conviction.

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3.—File A of cases in which any public servant has been tried, whatever may have been the result of the case.

Records to be preserved for twelve years.

IX.—The following records shall be preserved for 12 years and shall then be destroyed :—

1.—File A of cases under Chapter XXXVI. of the Criminal Procedure Code, in which maintenance is awarded.

2.—Insolvency proceedings under Chapter XX of the Civil Procedure Code.

Records to be preserved for six years.

X.—The following records shall be preserved for six years, and shall then be destroyed, unless their preservation is necessary on any of the special grounds noted below :—

1.—File A of all civil suits and appeals other than suits and appeals falling under Rule VI : provided that, if the decree has not been fully executed or become incapable of further execution, File A must be preserved until such time as the decree has been fully executed or become incapable of further execution.

NOTE.—A note of all cases destroyed in district offices under this clause shall be made at the time of destruction in the list of cases put up with the village bundle.

2.—File A of cases tried by the Magistrate of the District under Section 34 of the Criminal Procedure Code, in which he has inflicted a heavier punishment than might have been inflicted by a Magistrate of the first class : provided that, if the sentence has not been fully executed, the record shall be preserved until the return of the warrant, and then destroyed.

3.—Records relating to the realization of fines of Criminal Courts.

Records to be preserved for three years.

XI.—The following records shall be preserved for three years, and shall than be destroyed :—

1.—File A of criminal cases enquired into or tried by Magistrates, and not otherwise provided for in these rules.

2.—File A of appeals from orders passed by Magistrates.

3.—All correspondence between the District Magistrate or District Judge and Subordinate Courts and other records, periodical statements, reports, proceedings, applications, &c., not expressly provided for in these rules : provided that, in respect of records falling under this clause, Heads of offices must exercise their discretion in preserving reports, returns and proceedings likely to be useful in the future, as containing the result of inquiries or other information or the opinions of experienced officers on matters connected with the general administration of justice.

Records to be preserved for one year.

XII.—The following records shall be preserved for one year and shall then be destroyed :—

1.—File B of all civil and criminal cases and appeals.

NOTE.—A note should be made on the index of papers in File A opposite each paper destroyed under this clause. This note may be made by the official by whom the papers are actually destroyed, but the supervising officer appointed under Rule II should take proper steps to satisfy himself that the notes have been duly made, in the same way that, it is presumed, he satisfies himself that the other provisions of the rules are duly carried out by his subordinates.

2.—Proceedings of other Courts and officers forwarding notices, proclamations, calling for records, &c.

Periods how to be calculated.

XIII.—The periods prescribed above shall, except in the cases noted below, be taken to run from the date of the final order of the Court of first instance, or in the event of an appeal, from that of decision of the appeal.

In cases under Chapter XXXVI of the Criminal Procedure Code in which maintenance is awarded, the period shall be taken to run from the date of the last order passed for the enforcement of the award. In insolvency proceedings under the Code of Civil Procedure, the period shall be taken to run from the order of the Court declaring the insolvent discharged from further liability in respect of his scheduled debts. In insolvency proceedings under Act IV of 1872, the period shall be taken to run from the date of the order of discharge.

Note of records destroyed to be made.

XIV.—A note of every record destroyed under the above rules shall be made at time of destruction in the register in which the case is entered, under the signature of a responsible officer.

Private documents how to be dealt with.

XV.—Before destroying File A of any judicial proceeding, care must be taken to separate and remove from the file all documents belonging to private persons, or to Government as a party to the proceeding, which have not been superseded by the decree or impounded in the [illegible] which they were produced. These documents shall be

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preserved and tied up in a separate parcel, and notice shall, whenever practicable, be given to the persons who produced them in Court, requiring them to take them back into their own keeping within six months from the date of the notice, and warning them that they will be kept at their risk, and that the Court declines all responsibility for them. Copies of this notice should also be put up in a conspicuous place of the Court-house of the Deputy Commissioner of the district, and of the Court in which the suit was tried, or, if such Court has been abolished, of such other Court or Courts as may be exercising jurisdiction in lieu of it. Heads of offices must make the best arrangements for the custody of these documents that the circumstances admit of. In district offices it will probably be most convenient to keep them with the appropriate village bundles.

REGISTERS.

Registers to be destroyed after twelve years.

XVI.—The following judicial registers shall be preserved for 12 years from the date of the last entry, and shall then be destroyed :—

| | |
|---|---|
| Civil Register | No. VI. |
| Ditto | No. XIV. |
| Criminal Register | No. I. |
| Ditto | No. III. |
| Ditto | No. IV. |
| Ditto | No. XVII. |

Registers to be destroyed after six years.

XVII.—The following judicial registers shall be preserved for six years from the date of the last entry, and shall then be destroyed :—

| | |
|---|---|
| Civil Register | No. XVI. |
| Ditto | No. XVIII. |
| Ditto | No. XIX |
| Ditto | No. XXII. |
| Criminal Register | No. XVI. |
| Ditto | No. XVIII. |
| Civil and Criminal Register | C. |
| Ditto ditto | D. |

Registers to be destroyed after three years.

XVIII.—The following judicial registers shall be preserved for three years from the date of the latest entry, and shall then be destroyed :

| | |
|---|---|
| Civil Register | No. VII. |
| Ditto | No. VIII |
| Ditto | No. IX. |
| Ditto | No. XII. |
| Ditto | No. XVII. |
| Ditto | No. XXIII. |
| Ditto | No. XXIV. |
| Ditto | No. XXV. |
| Criminal Register | No. V. |
| Ditto | No. VI. |
| Ditto | No. XIII. |
| Ditto | No. XIV. |
| Ditto | No. XV. |
| Ditto | No. XIX. |
| Civil and Criminal Register | E. |
| Ditto Ditto | F. |
| Ditto Ditto | G. |
| Ditto Ditto | H. |

No other judicial registers to be destroyed.

XIX.—No judicial register shall be destroyed except as directed above.

(*Judicial Circular No. CXXXVI*).

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(*b*).—Under the provisions of Section 5 of Act III of 1879, and with the sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to confirm the following Rules framed by the Judges of the Chief Court for the disposal of useless judicial records in the custody of the Chief Court, Punjab :—

RULES FOR THE DESTRUCTION OF USELESS JUDICIAL RECORDS OF THE CHIEF COURT OF THE PUNJAB.

I. All Judicial Records which by the lapse of time have become liable to destruction under the following rules shall ordinarily be destroyed during the period when the Court is closed for Civil business.

II. The destruction of such records shall be carried out under the supervision of the Head Record-keeper, subject to the general superintendence of the Deputy Registrar, and shall be effected by tearing, or in some other suitable manner, and the Head Record-keeper shall be

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responsible that all Court Fees stamps have been duly cancelled and rendered useless. The paper, when the Head Record-keeper has certified that all writing has been effectually obliterated, shall be sold, under the orders of the Registrar, in the open market, and the proceeds of the sale devoted to the pay of the temporary establishment entertained for the destruction of useless records, the facilitation of the inspection of records, and generally to the improvement of the Office of the Court, under the orders of the Judges.

III. Each record shall be divided into two files which shall be called file A and file B.

IV. Each paper as it is filed shall be entered in the index which is put up with the record of every case on its institution, and shall be marked with the letter A or B for the purpose of indicating whether it belongs to file A or file B.

V. File A in Civil cases shall consist of the following papers :—

(*a*). *In original suits.*

1. The *Tablak* or envelope containing particulars of the case and a brief abstract of the orders in vernacular.

2. The index of papers.

3. The order sheet.

4. The plaint, together with any schedule annexed thereto, and all documents, whether original or copies, filed with the plaint.

*Note.*—In miscellaneous cases the petition or written application of the party setting the Court in motion will take the place of the plaint.

5. The written statements and pleadings of the parties.

6. Applications of parties who are strangers to the suit, with the Court's order thereon.

7. Orders of appointment, removal or discharge of a guardian or next friend.

8. The memorandum of issues, with amended or additional issues if any.

9. All depositions of witnesses.

10. Order for fining a witness.

11. All documents received by the Court during the trial as evidence between the parties.

12. Order impounding a document.

13. Commissions, proceedings held thereunder, and reports and examinations of Commissioners.

14. Affidavits.

15. Reports furnished by the Record Department.

16. Applications to refer to arbitration, references to arbitration, the award or other final return of the arbitrators, with the proceedings, depositions and documents submitted therewith, and any application to set aside the award, with the Court's orders thereon.

17. Instruments of withdrawal, compromise or confession of judgment.

18. Orders of arrest or attachment before judgment, with all documents relating thereto.

19. Interlocutory orders of the Court.

20. The judgment, translation (if any), or other final order.

21. The decree and all documents relating to the preparation or amendment thereof.

22. All notes in the handwriting of the Judge.

23. Application for the readmission of a suit dismissed for default, or for the rehearing of a suit decreed *ex-parte*.

24. Applications for review of judgment, with the Court's orders thereon.

25. All receipts and acknowledgments filed in execution proceedings.

(*b*). *In appeals and miscellaneous cases* (*including reference and revision proceedings*).

1. The *Tablak* or envelope containing particulars of the case and a brief abstract of orders in vernacular.

2. The index.

3. The memorandum of appeal.

4. The notice, with report of service, in *ex-parte* cases.

5. Memorandum of objections under Sections 561 or 567 of the Civil Procedure Code.

6. The finding on issues referred to the Lower Court for trial under Section 566 of the Civil Procedure Code.

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7. Security bond for costs filed by the appellant.

8. Petitions for substitution, addition, or striking out of names of parties, or for substitution of the names of the heirs of a deceased appellant or respondent.

9. Depositions of parties or witnesses taken in this Court or on remand for that purpose.

10. Order for fining a witness.

11. Commissions, proceedings held thereunder, and reports and examination of Commissioners.

12. Order of appointment, removal or discharge of a guardian or next friend.

13. Documents filed by the parties.

14. Order impounding a document.

15. Affidavits.

16. Applications to refer to arbitration, references to arbitration, the award or other final return of the arbitrators, with the proceedings, depositions and documents submitted therewith, and any application to set aside the award, with the Court's orders thereon.

17. Instruments of withdrawal, compromise or confession of judgment.

18. Interlocutory orders.

19. The Court's judgment, translation (if any), or final order.

20. The decree and all documents relating to the preparation or amendment thereof.

21. Application for the readmission of an appeal dismissed for default, or for the rehearing of an appeal decreed *ex-parte*.

22. Application for review of judgment.

23. Application for revision under Section 622 of the Civil Procedure Code.

24. Judgment and final order on applications referred to in 21 to 23.

25. Reference under Section 617 of the Civil Procedure Code or other law, with the final order.

VI. File B in Civil cases shall consist of all papers in the record not indicated above as belonging to file A, unless it be specially directed by the Court that any paper which would ordinarily belong to file B be placed in file A.

The following papers for facility of reference are indicated as belonging to file B:—

1. Copy of the Lower Court's judgment.

2. Copy of the Lower Court's decree.

3. *Vakalatnâmas*, Mukhtarnamas and the like.

4. Proceedings calling for the record or directing the issue of a notice.

5. Notices issued.

6. District Court's proceeding forwarding the record or the notice served on respondent.

7. Petition for postponement of execution or of sale, or for the issue of an injunction.

8. Proceeding directing the issue of a notice to show cause.

9. Notice to shew cause, with the report of service.

10. Translation of the order granting or rejecting a petition for postponement of execution or of sale, &c.

11. Respondent's application for security for costs being taken from the appellant.

12. Petition for adjournment.

13. Translation of order of remand under Section 566 of the Civil Procedure Code.

14. Petition for translation of evidence.

15. Petition for records, or account books to be sent for.

16. Petition for return of documents.

17. Paper books which do not contain the judgment of the Court.

18. Translation of the Court's order directing the restoration of an appeal to its original number.

19. Translation of order allowing an application for review of judgment.

20. Application for transfer.

21. Applications for copies.

22. Other applications which have been disallowed.

VII. File A in Criminal cases shall consist of the following papers:—

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(*a*). *In original trials.*

All papers.

(*b*). *In cases of appeal, reference and revision.*

1. The *Tablak* or envelope containing particulars of the case, and a brief abstract of the orders in vernacular.

2. The index.

3. The petition of appeal or revision or letter of reference.

4. Copy of the judgment of the Lower Court.

5. Any additional evidence taken under the orders of the Chief Court on remand.

6. English translation of Lower Court's judgment.

7. Translation of Police Reports.

8. Interlocutory orders of the Court.

9. Judgment and formal order of the Court and translation of the same.

10. All notes in the handwriting of a Judge.

VIII. File B in Criminal cases shall consist of all papers in the record not indicated above as belonging to file A, unless it be specially directed by the Court that any paper which would ordinarily belong to file B be placed in file A.

IX. (*a*). The following papers in file A of Civil cases shall be permanently retained :—

1. Index.

2. Judgments.

3. Decrees.

4. Unreturned deeds.

(*b*). The following papers in file A of Criminal cases shall be permanently retained :—

1. Index.

2. Judgments.

3. Warrants of execution (when returned).

4. Unreturned deeds.

X. The following records shall be preserved for thirty years and then destroyed (subject to the provisions of the preceding rule) :—

1. File A in all original Civil cases.

2. File A of all appeal and revision cases involving the title to immoveable property as defined in Section 2, clause 5, of Act I of 1868.

3. File A of all appeal and revision cases relating to the succession to an office, or to establish or set aside an adoption, or otherwise determine the status of an individua and of all appeal and revision cases relating to trusts or religious endowments.

4. File A of proceedings under Sections 7 and 8 of Regulation XVII of 1806.

5. File A of proceedings under Acts XIX of 1841, XXXV and XL of 1858, XXVII of 1860, IX of 1861, X of 1865, and all cases connected with the custody and disposal of intestate property.

6. Proceedings under the Indian Divorce Act, IV of 1869.

7. Judgments of Her Majesty's Privy Council in appeals preferred from orders of the Chief Court.

8. Murder references.

9. Original criminal trials.

10. File A of Criminal appea[illegible]evision and reference cases relating to cases decided by Courts of Sessions, or by Magistrates empowered under Section 30, Criminal Procedure Code, and of cases coming under Chapters XII and XVII, Indian Penal Code, to which Section 75 of the Indian Penal Code is applicable : Provided that in the cases referred to in 9, 10 and 11, if the sentence has not been fully executed, the record shall be preserved until the return of the warrant, and shall then be destroyed.

11. File A of appeals, revisions or references under Chapter XXXVI, Criminal Procedure Code, in which the orders of the Courts below have been interfered with.

12. Cases in which any public servant has been tried.

13. Records relating to the disposal of immoveable property forfeited to Government under Section 62, Indian Penal Code.

14. File A of cases heard in the exercise of Insolvency Jurisdiction, other than that conferred by Chapter XX of the Code of Civil Procedure.

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15. File A of Criminal cases in which a lunatic is concerned, unless the lunatic shall have been subsequently tried or have died.

XI. The following records shall be preserved for twelve years and then destroyed (subject to the provisions of Rule IX).

1. File A of Civil and Criminal appeal, Civil and Criminal revision and Civil and Criminal reference cases not mentioned in Rule X.

XII. File B of all descriptions of cases, Civil or Criminal, including duplicate copies of paper books, shall be preserved for one year and then destroyed, except in cases appealed to the Privy Council, in which it shall be retained until the final orders on the appeal are communicated to the Court, and shall then be destroyed.

XIII. The periods prescribed above shall be taken to run from the final order of the Court.

XIV. A note of every record destroyed under the above rules shall be made at the time of destruction in the register in which the case is entered, and also in the index of papers under the signature of a responsible official.

XV. Before destroying file A of any judicial proceeding, care must be taken to separate and remove from the file all documents belonging to private persons, or the Government as a party to the proceedings, which have not been superseded by the decree or impounded in the case in which they were produced.

A list of these documents shall be prepared; and they shall be tied up in a separate parcel, and filed till application is made for them.

XVI. A general notice will be fixed up in a conspicuous part of the Court house that documents filed in a suit or other proceeding should be withdrawn as soon as the decree or order made therein has become final; and that if they are left in the Court, they will be kept there at the risk of the owners.

Care shall be taken that no document is returned within the period specified in Section 144 of the Code of Civil Procedure until a certified copy has been delivered to be substituted for the original, and that no document ordered to be impounded or which has by force of a decree become void or useless, or which is required by law to be filed and preserved (for instance, a will under Section 259 of the Indian Succession Act, 1865, or Section 81, Act V of 1881) is allowed to pass out of the custody of the Court.

(*Punjab Government Notification No.* 920, *dated* 16*th September* 1887, *Punjab Gazette of* 22*nd idem, Part I, p.* 521).

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## ACT No. IV of 1879.

(*Passed on the* 13*th March* 1879).

An Act to consolidate and amend the law relating to Railways in India.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Railways in India; It is hereby enacted as follows:—

### CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Indian Railway Act, 1879:"

Local extent.

It extends to the whole of British India and, so far as regards subjects of Her Majesty the Empress of India, to the dominions of Princes and States in India in alliance with Her said Majesty;

Commencement.

And it shall come into force on the first day of July 1879.

Repeal of Acts.

2. On and from that day, the Acts specified in the first schedule hereto annexed shall be repealed.

All rules made, notifications published, and powers conferred under any of such Acts, or any enactment thereby repealed, shall (so far as they are consistent herewith) be deemed to have been respectively made, published, and conferred under this Act.

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Nothing in the Carriers Act, 1865, shall apply to carriers by railway.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"Railway" means a railway for the public conveyance of passengers or goods;

It includes—

(a) all land within the fences or other boundary-marks prescribed under section fifty-two;

(b) all lines of rail, sidings, or branches worked over for the purposes of, or in connection with, a railway;

(c) all stations, offices, warehouses, fixed machinery, and other works constructed for the purposes of, or in connection with, a railway;

(d) all vessels and rafts used for the purpose of carrying on the traffic of a railway.

In section four, "railway" includes a railway under construction, and in the remaining part of this section and in the following sections (namely), six, eight, sixteen, twenty-five, thirty, thirty-three, thirty-four, forty to forty-six (both inclusive), fifty-two, and fifty-three, "railway" includes a railway under construction and a railway not used for the public conveyance of passengers or goods;

"Railway-Administration" means in the case of a railway worked by Government or a Native State, the manager of such railway, and in the case of a railway worked by a company or private individual, such company or individual:

"Railway-servant" means any person employed by a Railway-Administration, to perform any function in connection with a railway;

and in section twenty-five, last clause, sections twenty-six, twenty-seven thirty-eight, and forty-two includes any person employed to perform any such function by any other person in execution of a contract into which he has entered with a Railway-Administration.

Right to use locomotives.

4. It shall be lawful, with the previous sanction of the Governor-General in Council, to use on every railway locomotive engines or other motive power, and carriages and wagons to be drawn or propelled thereby.

NOTE.—See Note (c) at end of Act.

## CHAPTER II.

### DUTIES OF THE RAILWAY-ADMINISTRATION.

Railway when to be opened.

5. A Railway, or portion or extension of, or addition to, a railway shall not be opened for the public conveyance of passengers until the Railway-Administration has given to the Governor-General in Council notice in writing of the intention of opening the same, and until the Governor-General in Council has by order sanctioned the opening of the same.

Governor General in Council may appoint Inspecting-officers.

5A. The Governor-General in Council may from time to time appoint, by name or by virtue of their office, officers to be Inspecting-officers under this Act.

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NOTE.—With reference to Notification No. 168 of this date, the Governor-General in Council is pleased to appoint the Director of the North-Western Railway to be an Inspecting Officer under Section 5A, of Act IV of 1879, as amended by Act IV of 1883, in respect to the railways comprising the North-Western Railway system. (*Notification No.* 169, *dated 17th May* 1887, *Gazette of India of* 21*st idem*).

Sanction not to be given until after report by Inspecting-officer.

5B.(1) The sanction referred to in section five shall not be given until an officer appointed under Section 5A has, after inspection of the railway, portion, extension, or addition, as the case may be, reported to the Governor-General in Council that in his opinion the opening of the same would not be attended with danger to the public using it.

(2) Notwithstanding anything hereinbefore contained, the Governor-General in Council may, in any particular case or in any particular class of cases, by special order, confer on any officer appointed under Section 5A power to sanction the opening of a railway, portion, extension, or addition, if in the officer's opinion the opening of the same will not be attended with danger to the public using it.

(3) In such case it shall not be necessary to make the report required by sub-section (1); but the Governor-General in Council may by order cancel the sanction given under sub-section (2), or direct that the sanction shall be subject to such conditions as he thinks fit.

(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor-General in Council, or the officer appointed under Section 5A, as the case may be, thinks necessary for the safety of the public.

(5) When sanction for the opening of any railway, or portion or extension of, or addition to, any railway is given subject to conditions, and the Railway-Administration fails or neglects to fulfil, or comply with, those conditions, the sanction shall on the failure or neglect forthwith be deemed to be void, and the railway, or portion, or extension, or addition, as the case may be, shall not be used unless and until sanction is again obtained under this section for the opening thereof.

When alterations affecting safety of passengers are made in railway, sanction to be again obtained for opening.

5C. If, after a railway has been opened as hereinbefore provided any portion of it is so altered by the Railway-Administration as to cause danger to, or affect the safety of passengers carried thereon, the portion so altered shall not be used for the public conveyance of passengers, unless and until sanction is obtained, in accordance with the provisions of Section 5B, for the opening of it.

Powers of Inspector of Railways.

5D. (1) Every officer appointed under Section 5A shall, for the purpose of the inspection, be deemed to be a public servant within the meaning of the Indian Penal Code, and shall, subject to the control of the Governor-General in Council, have the following powers, namely:—

(*a*) he may enter on and inspect any railway or portion thereof which has been opened for the public conveyance of passengers, or any rolling-stock used thereon;

(*b*) he may, by an order in writing under his hand, require the attendance of any railway-servant whom he thinks fit to call before him and examine for the said purpose, and may require any such servant to answer, or furnish returns regarding, such inquiries for the said purpose as he thinks fit to make;

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(c) he may require and enforce the production of all books, papers, and documents belonging to or in the possession of any Railway-Administration which in his opinion are necessary for the said purpose.

(2) Every Railway Administration, whose railway or rolling-stock is being inspected under this Act, shall afford all reasonable facilities for making the inspection to the officer making it.

Governor-General in Council empowered to close railway.

**5E.** When, after inspecting any railway or portion of a railway, or any rolling-stock used thereon, any officer appointed under Section 5A reports to the Governor-General in Council that in his opinion the use of the railway or portion, or of any specified rolling-stock, will be attended with danger to the public using it, the Governor-General in Council may, by order, direct that the railway or portion be closed for the public conveyance of passengers, or that the rolling-stock so specified shall no longer be used, as the case may be.

Re-opening of railway.

**5F.** When a railway or portion of a railway has been closed under Section 5E, it shall not be re-opened for the public conveyance of passengers unless and until it has been inspected, and its opening sanctioned, in accordance with the provisions of Section 5B.

(2) When the Governor-General in Council has directed under Section 5E that any rolling-stock shall not be used, the rolling-stock shall not be used unless and until an officer appointed under Section 5A reports that it is fit for use and the Governor-General in Council sanctions its use.

NOTE.—Sections 5—5F are enacted as above by Act IV of 1883.

Accidents to be reported.

6. Every Railway-Administration shall, within forty-eight hours after the occurrence upon the railway of—

(a) any accident attended with loss of human life or serious injury to person or property,

(b) any accident of a description usually attended with such loss or injury, and

(c) any accident of any other description which the Governor-General in Council may, from time to time, direct to be notified,

give notice thereof to the Local Government;

and the station-master nearest to the place at which the accident occurs, or, where there is not station-master, the officer in charge of the section of the railway on which the accident occurs, shall without unnecessary delay give notice in writing or by telegraph of such accident to the nearest Magistrate and to the officer in charge of the police-station in the jurisdiction of which the accident occurs, or to such other Magistrate and police-officer as the Local Government from time to time appoints in this behalf.

Returns of accidents in course of traffic.

7. Every Railway-Administration shall make up and deliver to the Governor-General in Council a return of accidents occurring in the course of the public traffic upon the railway, whether attended with personal injury or not, in such form and manner, and at such intervals of time, as the Governor-General in Council from time to time directs.

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General rules for working railway.

8. Every Railway-Administration shall make general rules for the following purposes (that is to say) :

(*a*) for regulating the mode in which, and the speed at which, carriages and wagons used on the railway are to be moved or propelled ;

(*b*) for regulating the maximum number of passengers which each carriage and compartment may carry, and the mode in which such number shall be denoted thereon ;

(*c*) for regulating the provision to be made for the accommodation and convenience of passengers ;

(*d*) for declaring what shall be deemed to be, for the purposes of this Act, dangerous goods ;

(*dd*) for regulating the conduct of the railway-servants, and

NOTE.—Cl. (*dd*) is added by Act IV of 1883.

(*e*) generally for regulating the travelling upon, and the use, working and management of, the railway ;

and may, from time to time, alter any such rules.

Penalty for breach of rules.

Any such rule may contain a provision that any person committing a breach of it shall be liable to a fine which may extend to fifty rupees, or, in default of payment of such fine, to simple imprisonment for a term which may extend to two months.

No such rule shall take effect unless it is consistent with this Act and until it has received the sanction of the Governor-General in Council.

Notification of rules.

All rules made under this section shall be published in the *Gazette of India*, and shall be otherwise notified to the railway-servants and the public in such manner as the Governor-General in Council, from time to time, directs.

Power to cancel rules.

The Governor-General in Council may at any time cancel any such rule.

NOTE.—The rules made under this section are given at the end of the Act.

Copy and translation of Act, &c., to be shown at stations.

9. An abstract of this Act, and a copy of the time-tables and tariff of charges which may, from time to time, be published for any railway by any Railway-Administration, shall be exhibited in some conspicuous place at each station of such railway, so that they may be easily seen and read.

All such documents shall be so exhibited in English and in the principal vernacular language of the district in which the station is situate, and in such other language, if any, as the Governor-General in Council may direct.

## CHAPTER III.

### CARRIAGE OF PROPERTY.

Special contract limiting liability.

10. Every agreement purporting to limit the obligation or responsibility imposed on a carrier by railway by the Indian Contract Act, 1872, Sections 151 and 161,

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in the case of loss, destruction or deterioration of, or damage to, property, shall, in so far as it purports to limit such obligation or responsibility, be void unless—

(*a*) it is in writing signed by, or on behalf of, the person sending or delivering such property, and

(*b*) is otherwise in a form approved by the Governor-General in Council.

NOTE.—See Act I of 1879, Note (*e*), 8, 9.

No liability for loss of gold, silver, &c., unless value declared and increased charge accepted.

11. When any property mentioned in the second schedule hereto annexed is contained in any parcel or package delivered to a carrier by railway, the carrier shall not be liable for loss, destruction, or deterioration of, or damage to, such property, unless at the time of delivery the value and nature thereof have been declared by the person sending or delivering the same, and an increased charge for the safe conveyance of the same, or an engagement to pay such charge, has been accepted by some railway-servant specially authorized in this behalf.

When any property of which the value and nature have been declared under this section has been lost, destroyed, or damaged, or has deteriorated, the compensation recoverable for such loss, destruction, damage or deterioration shall not exceed the value so declared.

No liability for unbooked luggage.

12. A carrier by railway shall in no care be answerable for loss, destruction, or deterioration of, or damage to, any passenger's luggage, unless a railway-servant has booked and given a receipt for the same.

Plaintiffs not required to prove negligence.

13. In any suit against a carrier by railway for compensation for loss, destruction, or deterioration of, or damage to, property delivered to a railway-servant, it shall not be necessary for the plaintiff to prove in what manner such loss, destruction, deterioration, or damage was caused.

Lien for money due for carriage, &c., of property.

14. If any person fails to pay on demand any sum due by him to a carrier by railway for conveyance of any property by railway, or for the custody of any property, or for demurrage or wharfage in respect of the same, the Railway-Administration may detain the whole or any part of such property, or, if the same have been removed from the railway, any other property of such person then on such railway or thereafter coming into the possession of the Railway-Administration;

and may also sell by public auction, in the case of perishable property at once, and in the case of other property on the expiration of at least fifteen days' notice thereof published in one or more of the local newspapers, or where there are no such newspapers, in such manner as the Local Government may, from time to time, direct, sufficient of such property to produce the sum payable as aforesaid, and all charges and expenses of such detention, notice and sale, or, if such person fails to remove from the railway within a reasonable time any property so detained, the whole of such property;

and may, out of the proceeds of the sale, retain the sum so payable, together with all charges and expenses aforesaid, rendering the surplus, if any, of such proceeds, and so much of the property (if any) as remains unsold, to the person entitled thereto;

or such carrier may recover any such sum by suit.

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NOTE.—In exercise of the power conferred upon him in this behalf by Section 14 of the Indian Railway Act (IV. of 1879), the Hon'ble the Lieutenant-Governor is pleased to direct and hereby directs, that when there is no local newspaper the notice required by that section shall be published in the following manner, namely, (1) by being exhibited in English, Urdu and Hindi, in some conspicuous place at the Railway Station to which the goods which it is proposed to sell were consigned, and (2) by insertion as an advertisement in the *Civil and Military Gazette.*—(*Punjab Government Notification No.* 1687 *S. dated* 13*th October* 1885, *Punjab Gazette of* 15*th idem, Part I, p.* 760).

Written account of property to be given on demand.

15. The owner or person having the care of any property which has been carried upon any railway, or is brought into any station or warehouse for the purpose of being carried upon a railway, shall, on demand by any railway servant appointed in this behalf by the Railway-Administration, deliver to him an exact account in writing signed by such owner or person of the quantity and description of such property.

Dangerous goods.

16. No passenger shall take with him on a railway, and no person, shall deliver or tender for carriage upon any railway, any dangerous luggage or goods without giving notice of their nature to a railway-servant, or, in the case of luggage or goods delivered or tendered for carriage, distinctly marking their nature on the outside of the package containing the same.

Any railway-servant may refuse to carry upon a railway any luggage or parcel which he suspects to contain dangerous goods, and may require such luggage or parcel to be opened to ascertain the fact previously to carrying the same;

and in case any such luggage or parcel is received for the purpose of being carried upon a railway, any railway-servant may stop the transit thereof until he is satisfied as to the nature of its contents.

## CHAPTER IV.

### CARRIAGE OF PASSENGERS.

Passengers on payment of fares to be furnished with tickets.

17. Every person desirous of travelling on a railway shall, upon payment of his fare, be furnished with a ticket specifying in English and the principal vernacular language of the district in which the ticket is issued, the class of carriage for which, and the place from and place to which, the fare has been paid, and the amount of such fare;

Tickets to be shown and given up on demand.

and every passenger shall, when required, show his ticket to any railway-servant duly authorized to examine the same, and shall deliver up such ticket upon demand to any railway-servant duly authorized to collect tickets.

Fares and tickets at intermediate stations.

18. At the intermediate stations, the fares shall be deemed to be accepted and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

Preferential right of ticket-holders.

In case there is not room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference; and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets:

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Proviso.

Provided that all officers and troops of Her Majesty on duty, and all other persons on the business of the Government, who, by virtue of any contract with the Government, or, in the case of a railway worked by Government, of any direction of the Governor-General in Council, are entitled to be conveyed on a railway in preference to, or in priority over, the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which, they have received their tickets.

Any passenger to whom a ticket has been furnished at any station and for whom there is no room shall, on returning the ticket within a reasonable time after its issue, be entitled to have his fare at once refunded.

Fares to be prepaid.

19. Except with the permission of the Railway-Administration or of such officer as it appoints in this behalf, no person shall enter any carriage used on any railway for the purpose of travelling therein without having first paid his fare and obtained a ticket.

Power to remove persons suffering from infectious disease.

20. Any passenger found suffering from an infectious disease in a railway-carriage or in any place on railway, may if his remaining in such carriage or place is likely to spread the infection of such disease, be removed from such carriage or place by any railway-servant;

any passenger so removed who has paid his proper fare to or at the place at which he is so removed, shall be entitled, on returning his ticket, to have such fare refunded.

## CHAPTER V.

### OFFENCES AND PROCEDURE.

#### (*A*).—*Offences by the Railway-Administration.*

Penalty for opening or re-opening railway in contravention of Sections 5 and 5F, and keeping open after order under Section 5E.

21. Any Railway-Administration opening or using, in contravention of Section 5, Section 5B, or Section 5C, any railway, or any portion or extension of, or addition to, a railway, or keeping, in contravention of an order of the Governor-General in Council under Section 5E, any railway or portion thereof open, or re-opening, in contravention of Section 5F, sub-section (1), any railway or portion thereof, or using, in contravention of Section 5F, sub-section (2), any rolling stock, shall forfeit to Government the sum of one thousand rupees for every day during which the railway, portion, extension, or addition remains open or is used in contravention of any of those sections, or of the order of the Governor-General in Council, as the case may be, or during which the rolling-stock is so used.

NOTE.—As enacted by Act IV of 1883.

For omitting to report accident.

22. Any Railway-Administration omitting to give notice as required by section six, shall forfeit to Government the sum of one hundred rupees for every day during which such omission continues.

For not sending return of acidents or making rules under Section 8, or exhibiting copy under Section 9.

23. Any Railway-Administration failing to deliver any return mentioned in section seven within fourteen days after the same ought to be delivered, or to make or notify any rule as required by section eight, or to exhibit any abstract or copy mentioned in section nine in manner required by that section, shall forfeit to Government the sum of fifty rupees for every day during which such failure continues.

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(B).—*Offences by Railway-Servants.*

For omitting to give notice of accident.

24. Any station-master or other person omitting o give notice as required by section six shall be punished with fine which may extend to fifty rupees.

For drunkenness or breach of duty.

25. Any railway-servant who is in a state of intoxication whilst actually employed upon a railway in discharge of any duty,

or who negligently omits to perform his duty,

or who performs the same in an improper manner,

shall be punished with fine which may extend to fifty rupees;

or if the duty in any of the cases aforesaid be such that the negligent omission or improper performance thereof would be likely to endanger the safety of any person travelling or being upon such railway, such servant shall be punished with imprisonment for a term which may extend to one year or with fine, or with both.

For endangering the safety of persons.

26. If any railway-servant in the discharge of his duty endangers the safety of any person—

(*a*) by disobeying any general rule sanctioned and published and notified in the manner prescribed by section eight; or

(*b*) by disobeying any rule or order not inconsistent with the general rules aforesaid, and which such servant was bound by the terms of his employment to obey, and of which he had notice; or

(*c*) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to five hundred rupees, or with both.

For receiving bribes.

27. Every railway-servant shall be deemed a "public servant" within the meaning of Sections 161, 162, 163, 164, and 165 of the Indian Penal Code.

Amendment of Penal Code, Section 161.

In the definition of legal remuneration contained in the said section 161, the word "Government" shall, for the purposes of this section, be deemed to include any employer of a railway-servant as such.

For compelling passengers to enter carriages already full.

28. Any railway-servant who compels or attempts to compel any passenger to enter a carriage or compartment containing the maximum number of passengers denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

(C).—*Offences by persons generally.*

For not giving account of goods or giving false account.

29. Any person required under section fifteen to give an account of the quantity and description of any property who neglects or refuses to give such account,

or who wilfully gives a false account,

shall be punished with fine which may extend to five rupees for every maund (of 3,200 tolahs) of such property; and such fine shall be in addition to any charge to which such property may be liable.

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For taking dangerous goods on railway, or delivering such goods without notice.

30. Whoever, in contravention of section sixteen, takes with him any dangerous goods on a railway, or delivers or tenders any such goods for the purpose of being carried upon a railway, shall be punished with fine which may extend to two hundred rupees.

For travelling without ticket or not showing or delivering up ticket.

31. Any passenger travelling on a railway without a proper ticket, or having such a ticket and not showing or delivering up the same when so required under section seventeen, shall be liable to pay the fare of the class in which he is found travelling, from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare of the class aforesaid only from the place whence he has travelled.

Every such fare shall, on application by a railway-servant to a Magistrate, and on proof of the passenger's liability, be recoverable from such passenger as if it were a fine, and shall, when recovered, be paid to the Railway-Administration.

For evading payment of fare.

32. Any person who defrauds or attempts to defraud, any carrier by railway—

(*a*) by travelling, or attempting to travel, on any railway without having previously paid his fare;

(*b*) by riding or attempting to ride in or on a carriage, or by a train, of a higher class than that for which he has paid his fare;

(*c*) by using or attempting to use a ticket on any day for which such ticket is not available;

(*d*) by continuing his journey in or upon any carriage beyond the place to which he has paid his fare, without previously paying the fare for the additional distance;

or who, in any other manner whatever, attempts to evade the payment of his fare,

For altering ticket.

or who wilfully alters or defaces his ticket so as to render the date, number, or other material portion thereof illegible,

shall be punished with fine which may extend to fifty rupees, and shall also be liable to pay the fare (if any) which he ought to have paid; and such fare shall be recoverable in manner provided by section thirty-one, and shall, when recovered, be paid to the Railway-Administration.

For entering carriage in motion.

33. Any passenger who gets into or upon, or attempts to get into or upon, or quits or attempts to quit, any carriage upon any railway, while such carriage is in motion, shall be punished with fine which may extend to twenty rupees;

For riding on the steps.

and any passenger who rides, or attempts to ride, on the steps, or any other part of a carriage, upon any railway, except on those parts which are intended for the accommodation of passengers,

shall be punished with fine which may extend to fifty rupees.

For riding on engine, tender, &c.

34. Any person who, without the permission of the Railway-Administration, rides or attempts to ride, upon any locomotive-engine or tender upon any railway, or in or upon any vehicle not appropriated to the carriage of passengers,

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shall be punished with fine which may extend to one hundred rupees.

For smoking.

35. Any person who, without the consent of his fellow-passengers, if any, in the same compartment, smokes in or upon any railway-carriage, except in a carriage or compartment specially provided for the purpose, shall be punished with fine which may extend to twenty rupees;

and any person who persists in so smoking (except as aforesaid) after being warned by any railway-servant to desist, may, in addition to incurring the liability above-mentioned, be removed by any railway-servant from any such carriage, and from the premises of the railway, and, where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

For intoxication or nuisance.

36. Any person who is in a state of intoxication, or who commits any nuisance or act of indecency in any railway-carriage, or upon any part of any railway;

or who wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp in any railway-carriage,

shall be punished with fine which may extend to fifty rupees; and may be removed by any railway-servant from any such carriage, and also from the premises of the railway, and where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

For entering carriage or room reserved for females.

37. If any carriage, compartment, room, or place be reserved by the Railway-Administration for the exclusive use of females, any male person who without lawful excuse enters such carriage, compartment, room, or place knowing the same to be reserved as aforesaid, or remains therein after having been informed of its having been so reserved, shall be punished with fine which may extend to one hundred rupees,

and may be removed therefrom, and also from the premises of the railway, by any railway-servant,

and, where he has paid his fare and obtained a ticket, shall forfeit such fare and ticket.

For obstructing railway-servant in his duty.

38. Whoever wilfully obstructs or impedes any railway-servant in the discharge of his duty, shall be punished with fine which may extend to one hundred rupees.

For entering carriage already full.

39. Any passenger wilfully entering a carriage or compartment containing the maximum number of passengers which has been denoted thereon in accordance with a rule made and notified under section eight, shall be punished with fine which may extend to one hundred rupees.

For removing signals or injuring carriage, &c.

40. Any person who without authority or reasonable excuse makes, alters, shows, hides, removes, or extinguishes any signal or light upon any railway, or upon any engine, carriage, wagon, or other vehicle upon a railway,

or who negligently damages any engine, carriage, wagon, or other vehicle belonging to a railway, or any warehouse, building, machine, fence or other thing so belonging,

or who needlessly interferes with the means of communication provided in any train between the guard and the engine-driver or passengers,

shall be punished with fine which may extend to one hundred rupees.

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For trespass.

For refusing to leave on request.

**41.** Any person who unlawfully enters upon a railway shall be punished with fine which may extend to twenty rupees: and if any person so entering refuses to leave such railway on being requested to do so by any railway-servant, or by any person on behalf of the Railway-Administration, he shall be punished with fine which may extend to fifty rupees, and may be immediately removed from such railway by such servant or other person as aforesaid.

NOTE.—See Note (*c*) at the end of the Act.

For cattle-trespass within railway-fences.

**42.** The owner or person in charge of any bulls, cows, bullocks, calves, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats, and kids straying on any railway provided with fences suitable for the exclusion of such animals, shall be punished with fine which may extend to ten rupees for each animal, in addition to any amount that may be recovered under the Cattle Trespass Act, 1871.

For wilfully driving cattle on fenced railway;

Whenever any such animals are wilfully and unlawfully driven, or knowingly and unlawfully permitted to be, on any railway provided with fences suitable for the exclusion of such animals,

on unfenced railway.

and whenever any such animals are wilfully driven, or knowingly permitted to be, on any railway not so provided, otherwise than for the purpose of lawfully crossing the railway, or for any other lawful purpose,

the person in charge of such animals, or if he cannot be identified, then the owner of the said animals, shall be punished with fine which may extend to fifty rupees for each animal, in addition to any amount that may be recovered under the same Act.

Recovery of fines and payment of compensation.

All fines imposed under this section may, if the convicting Magistrate so direct, be recovered in manner provided by section twenty-five of the said Cattle Trespass Act, 1871, and may be appropriated in whole or in part in compensation for loss or damage proved to his satisfaction.

Amendment of Act I of 1871, Sections 11 and 26.

The expression "public road" in sections eleven and twenty-six of the same Act shall be deemed to include a railway. And any railway-servant may exercise the powers of seizure provided by the said section eleven.

NOTE.—In exercise of the power conferred on him by Section 52, Act IV of 1879, and with the sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to declare that the iron wire railings erected by the Sind, Punjab and Delhi Railway Company along the line of that Railway shall be deemed to be a fence suitable for the exclusion of all animals mentioned in Section 42 of the same Act.—(*Punjab Government Notification, No.* 4114, *dated* 11*th November* 1879, *Punjab Gazette of* 13*th idem*).

For opening or not properly shutting gates.

**43.** Whoever knowing or having reason to believe that any engine or train is approaching along a railway opens any gate which the Railway-Administration has set up on either side of the railway across any road for the use or accommodation of any person, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any vehicle, animal, or other thing, across the railway;

and whoever at any time, in the absence of a gate-keeper, omits to shut and fasten such gate as soon as he and any vehicle, animal, or other thing under his charge have passed through the same,

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shall be punished with fine which may extend to fifty rupees.

For minors obstructing line or throwing stones at train.

44. Whenever any minor under twelve years of age unlawfully—

(a) places or throws, or attempts to place or throw, upon or across a railway any wood, stone, or other thing, or

(b) removes or displaces, or attempts to remove or displace, any rail, sleeper, spike, key, or other thing belonging to the permanent way of a railway, or

(c) throws or causes to fall, or attempts to throw or cause to fall, against, into, or upon any engine, tender, carriage, or other vehicle used upon a railway, any wood, stone, or other thing,

such minor shall be deemed guilty of an offence, and the convicting Magistrate may, in his discretion, direct either that the minor, if a male, shall be punished with whipping, or that the father or guardian of the minor shall, within such reasonable time as the Magistrate may fix, execute a bond binding himself, in such penalty as the Magistrate may direct, to prevent the minor from repeating such offence.

The amount of such bond, if forfeited, shall be recoverable as if it were a fine.

Any person neglecting or refusing to execute a bond when required under this section so to do, shall be punished with fine which may extend to fifty rupees.

For wilful act or omission endangering persons on railway.

45. Whoever wilfully does any act, or wilfully omits to do what he is legally bound to do, intending by such act or omission to endanger, or knowing that he is thereby likely to endanger, the safety of any person travelling or being upon any railway, shall be punished with transportation (or in the case of an European or American, penal servitude) for a term of not less than seven years, or with imprisonment for a term which may extend to ten years.

For rash or negligent act.

46. Whoever rashly or negligently does any act, or omits to do what he is legally bound to do, and such act or omission is likely to endanger the safety of any person travelling or being upon a railway, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Disobedience of omnibus, &c., drivers to railway servants.

47. Every driver or conductor of an omnibus, carriage, or other vehicle shall, while in or upon any station-yard or other premises forming part of a railway, obey the reasonable directions of any railway-servant duly authorized in this behalf; and every person offending against this section shall be punished with fine which may extend to twenty rupees.

(D).—*Arrest of Offenders.*

Arrest for offences punishable under this Act of offender whose name is unknown, &c.

48. If any person commits any offence punishable under this Act and there is reason to believe that he will abscond or his name and address are unknown, and he refuses to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway-servant or police-officer, or any other person whom such railway-servant or police-officer may call to his aid, may without any

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warrant or written authority, arrest and detain such offender until he can be taken before a Magistrate or give sufficient security for his appearance before such Magistrate, or is otherwise discharged by due course of law.

Arrest for offences against certain sections.

**49.** Every person committing any offence mentioned in sections eight, twenty-five, twenty-six, thirty-six, thirty-seven, thirty-eight, forty-four, forty-five, and forty-six, may be arrested without any warrant or written authority by any railway-servant or police-officer, or by any other person whom such servant or officer may call to his aid;

and every person so arrested shall, without unnecessary delay, be taken before a Magistrate authorized to punish him or to commit him for trial.

(*E*).—*Jurisdiction.*

Magistrates having jurisdiction.

**50.** No Magistrate other than a Presidency Magistrate and a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

Place of trial.

Any person committing any offence against this Act or the rules made under it shall be triable for such offence in any place in which he may be found or which the Local Government may, from time to time, notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

Every notification under this section shall be published in the local official Gazette and a copy thereof shall also be exhibited in some conspicuous place at each of such railway-stations as the Local Government may direct so that it may be easily seen and read.

NOTE.—In exercise of the powers conferred by Section 50 of the Indian Railway Act (IV of 1879), the Hon'ble the Lieutenant-Governor is pleased to direct, and hereby directs, that any person committing any offence against the said Act, or the rules made under it, within the local limits of the district of Shahpur, shall be triable for the said offence in either of the districts of Jhelum or Gujrat, as well as in any other place in which he might be tried under any law for the time being in force. (*Punjab Government Notification No.* 272, *dated* 19*th December* 1884, *Punjab Gazette of* 25*th idem, Pt. I, page* 1232).

(*F*).—*Saving of other Criminal Laws.*

Saving of prosecutions under other laws.

**51.** Nothing in this Act shall be deemed to prevent any person from being arrested, prosecuted, or punished under any other law for any act or omission which constitutes an offence against this Act or the rules made under it:

Provided that no person shall be punished twice for the same offence.

## CHAPTER VI.

### MISCELLANEOUS.

Power of Government to make rules as to fences, gates, and bars.

**52.** The Governor-General in Council, or the Local Government with the previous sanction of the Governor-General in Council, may, from time to time, make rules requiring—

(*a*) that boundary-marks for fences be provided for any railway or any part thereof, and for roads constructed in connection therewith;

(*b*) that gates or bars be erected at places where any railway crosses a road on the level; and

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(c) that persons be employed to open and shut such gates or bars ;

and may by such rules determine what kind of fences shall, for the purposes of section forty-two, be deemed to be suitable for the exclusion of cattle,

and direct that any Railway-Administration wilfully neglecting or violating any rule made under this section shall forfeit to Government a sum not exceeding five hundred rupees for every such neglect or violation, or, when such neglect or violation is continuous, for every day during which it continues.

NOTE.—See Note to S. 42.

Power to declare Local Government in respect of any Railway.

53. The Governor-General in Council may from time to time, by notification in the *Gazette of India*, declare what Government or other Authority shall be deemed to be, for the purposes of this Act, the Local Government in respect of the whole or any part of a Railway.

NOTE.—See Government of India Notification No. 25 (Railway), dated 11th June 1879, (*Gazette of India of* 14th *idem*), and Note (c) *infra*.

Power to extend Act to steam-tramways.

54. The Governor-General in Council may, by notification, extend this Act or any portion thereof to any tramway worked by steam or other mechanical power.

NOTE.—The above section has been amended by Act XI of 1886, Section 49, which also provides that the word tramway in the above section shall have the meaning assigned to it by Section 3 of the said Act.

## THE FIRST SCHEDULE.

ACTS REPEALED.

(*See section* 2.)

| Number and year. | Title. |
|---|---|
| XVIII of 1854 ... .. | An Act relating to Railways in India. |
| XXXI of 1867 ... ... | An Act to render penal certain offences committed by servants of Railway Companies. |
| XIII of 1870 ... ... | An Act to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government. |
| XXV of 1871 ... ... | An Act to amend the Railway Act. |

## THE SECOND SCHEDULE.

(*See section* 11).

(a) Gold or silver, coined or uncoined, manufactured or unmanufactured ;

(b) plated articles ;

(c) cloths and tissue and lace of which gold or silver forms part ;

(d) precious stones, jewellery, trinkets ;

(e) watches, clocks, or time-pieces of any description ;

(f) Government securities ;

(g) Government stamps ;

(h) bills of exchange, hundis, promissory notes, bank-notes, orders, or other securities for payment of money ;

(i) maps, writings, title-deeds ;

(j) paintings, engravings, lithographs, photographs, carvings, sculpture, and other works of art ;

(k) glass, china, marble ;

(l) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;

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(*m*) shawls;
(*n*) lace;
(*o*) opium;
(*p*) ivory, ebony, sandalwood-oil;
(*q*) musical and scientific instruments.

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(*a*). RESOLUTION.—The Governor-General in Council is pleased, in supersession of all previous rules on the subject, to sanction, with effect from the 1st October 1880, the accompanying General Rules which have been made by the several Railway Administrations under Section 8 of the Indian Railway Act, 1879, for regulating the travelling upon, and the use working, and management of the railways, respectively directed by such administrations.

## GENERAL RULES FOR ALL RAILWAYS IN INDIA.

MADE IN CONFORMITY WITH SECTION 8 OF "THE INDIAN RAILWAY ACT, 1879."

The rules comprised in this code shall be held applicable to, and are to be observed on, all lines of Railway in India used for the public conveyance of passengers or goods, unless specially exempted by the Governor-General in Council.

Each Railway Administration may hereafter make such subsidiary rules as may be found necessary or expedient, provided that no such subsidiary rules shall be inconsistent with these general rules.

Every Railway servant is bound by the terms of his employment to obey both the general and the subsidiary rules.

### SECTION I.

INTERPRETATION CLAUSES AND DEFINITIONS.

Catchwords.

1. The catchwords in the margin of this code have been added merely for the purpose of facilitating reference; they are not to be held either as an integral part of the code, or in any way giving an interpretation to the clauses to which they are annexed.

Definitions.

2. In the rules comprised in this code, unless there is some thing repugnant in the subject or context—

Written.

"Written" instructions, orders, forms, &c., include documents which are printed, lithographed, or prepared by other processes, and instructions which are sent by telegram;

Main line.

"Main line" means the line ordinarily used by trains to run through and between stations on any part of a Railway;

Train.

"Train" means an engine with or without vehicles attached;

Passenger train.

"Passenger train" means a train intended for the conveyance of passengers and other coaching traffic;

Goods train.

"Goods train" means a train intended for the conveyance of general merchandize;

And includes—

(*a*) trains carrying live stock;

(*b*) trains carrying minerals;

(*c*) trains carrying materials;

Mixed train.

"Mixed train" means a train intended to convey both passengers and goods;

Ordinary train.

"Ordinary train" means a train, whether passenger, goods, or mixed, which is entered in the working time tables;

Special train.

"Special train" means any train not classed as an "ordinary train;

System of working.

"System of working" means the system adopted for the time being on any portion of a Railway as prescribed in Rule 3 and as detailed in Sections XIII to XIX;

Station.

"Station" means any place—

(I) at which traffic is booked, and where authority is given for trains to proceed;

(II) at which authority is given for trains to proceed under the "System of working;"

Station limits.

"Station limits" include all traffic lines and premises within the distant signal on signals if such be provided;

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Where no distant signal is provided, the "Station limits" extend to the outside points;

Where there are no points, and no distant signal, the "Station limits" extend to the ends of the platform, or other positions fixed in each case;

Authorized Officer. "Authorized Officer" means the person who usually issues instructions of the nature referred to in each case:

Special instructions. "Special instructions" mean instructions given by the "Authorized Officer;"

Station Master. "Station Master" means the person on duty responsible for the time being for working the trains and traffic within "Station limits;"

And includes—

(a) Assistant Station Master;

(b) Inspector;

(c) Clerk in charge;

(d) Any other person appointed to the charge of a Station.

Ganger. "Ganger" means the man in charge of a gang of men employed on repairing the permanent way whatever he may be called on any particular Railway;

Driver. "Driver" means the person in charge for the time being of a working locomotive engine;

Station signal. "Station signal" means the signal which on some Railways is called "Main" or "Home" or "Platform" signal;

Guard. "Guard" includes the under Guard, and any Brakesman or other person who may, for the time being, be performing the duties of the Guard;

Servant. "Servant" means any person employed to perform any function in connection with a Railway.

## SECTION II.

### General Management.

System of working. 3. Every Line of Railway upon which engine power is used, for the public conveyance of passengers or goods, must be worked on one of the following systems, *viz*:—

"Line clear and caution message,"

"Absolute block,"

"Train following,"

"Train Staff and Ticket,"

"Train Despatching,"

"Pilot Guard,"

"One Engine only,"

in accordance with the rules laid down in Sections XIII to XIX for the system adopted.

Double and single line working. 4. On a double line trains must invariably be run on the left hand road, except under special instructions to the contrary and in accordance with Rule 28.

On a single line no engine, with or without a train, shall be permitted to leave one station for another until it shall have been ascertained that the line between those stations is clear of engines and trains coming from the opposite direction, and of all impediments as far as can be known.

When allowable under the system adopted for working, trains may follow one another between stations in the same direction under special instructions on both single and double lines in accordance with Rules 23 and 24.

Passage for Guard to carriages. 5. Except when necessary to carry passengers in goods-vehicles, no passenger or mixed train shall be allowed to move from any station unless it be provided with an arrangement by which the Guard can communicate with, make his way, or otherwise get access to every passenger carriage in the train.

Engine not to push. Same as Rules 183 and 246. 6. No engine shall be allowed to push a train, or portion of a train, or fuel truck, unless within station limits, or under special instructions.

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Brake-vans,&c.

7. Except in the case of an engine running without vehicles, no train shall be despatched from any station without one or more brake-vans, and one or more Guards, and all the necessary lamps and other appliances.

Signal lights.
Same as Rules 104 and 162.

8. Whenever any train or engine is timed to run, or from any cause is expected to run, on any portion of the line later than sunset and before sunrise, the signal lamps must be lighted at sunset. During twilight in the mornings and evenings, both day and night signals must be used. The signals lights must not be put out until broad day-light except under instructions from an authorized officer.

In foggy or stormy weather when the day signals cannot be seen plainly, the signal lamps must be lighted, and kept burning, and at such times both the day and night signals must be used.

Engine not to run tender foremost.
Same as Rule 230.

9. No engine shall be driven tender, or fuel truck, foremost, except within station limits, without a written order, or unless in cases of unavoidable necessity to be established by the Driver.

Special trains.

10. No special train, or light engine, shall leave a station unless previous notice shall have been given, when practicable, to all stations concerned.

Time.

11. Madras time, or such time as is adopted on each Railway in India, shall be sent to the principal stations in accordance with authorized instructions.

Infectious diseases.
Same as Rules 143 and 202.

12. No person suffering from an infectious disease shall enter a Railway carriage or premises without previously notifying to the Station Master that he is so suffering, and obtaining from him permission to enter under special instructions.

Attendance.
Same as Rules 144 and 203.

13. Any one being in attendance on a person suffering from an infectious disease is subject to the same restrictions, while travelling by Railway, as if he himself were suffering from the disease.

Maximum number of passengers.

14. The maximum number of passengers that may be carried in each compartment of every description of carriage must be fixed by the Railway Administration with the approval of Government, and such number must be distinctly exhibited, inside each first and second class compartment in the English language, and both inside and outside of each compartment of all classes inferior to the second class, in conspicuous places in English and in the vernacular languages most commonly used in the districts through which the Railway passes.

Period for which tickets are available.

15. Tickets are only available from the date and for the period specified by the Railway Administration by which they are issued.

Smoking on Railway premises.
Same as Rule 141.

16. Any person found smoking, or having an open light or fire, in good-sheds, or store yards, or, who persists in smoking, after being warned by a Railway servant or Police Officer to desist, on any other portion of the Railway premises, where such pratice may be deemed dangerous by the authorized officer, shall be liable to immediate removal from the Railway premises, and to a fine which may extend to fifty rupees, or in default of payment of such fine to simple imprisonment for a term which may extend to two months.

Disorderly persons.
Same as Rule 140.

17. In the event of any person being drunk and disorderly, or causing annoyance to others, the Station Master is to use all reasonable means to stop the annoyance, and if the offender persists, the Station Master is have him removed from the Railway premises, and the offender is liable to prosecution under the Railway Act.

Tickets to be furnished.

18. Every person desirous of travelling on a Railway shall, upon payment of his fare, be furnished with a ticket specifying in English and the principal vernacular language of the district in which the ticket is issued, the class of carriage for which, and the place from and place to which the fare has been paid, and the amount of such fare.

Tickets to be shown and given up.

And every passenger shall, when required, show his ticket to any Railway servant duly authorized to examine the same, and shall deliver up such ticket upon demand to any Railway servant duly authorized to collect tickets.

Tickets at intermediate stations.

19. At the intermediate stations, the fare shall be deemed to be accepted and the tickets furnished only upon condition that there be room in the train for which the tickets are furnished.

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In case there is no room for all the passengers to whom tickets have been furnished, those who have obtained tickets for the longest distance shall have the preference; and those who have obtained tickets for the same distance shall have the preference according to the order in which they have received their tickets.

Preferential right of ticket-holders.

20. Any passenger to whom a ticket has been furnished at any station and for whom there is no room shall, on returning the ticket within a reasonable time after its issue, be entitled to have his fare at once refunded.

Refund of fare.

21. No trespassing upon the Railway shall be allowed, and no person, other than a Railway servant, shall be permitted to walk on the line unless provided with a license to do so, signed by an authorized officer of the Railway. If the trespasser, on being requested to quit, persists in remaining, he may be immediately removed from the Railway by any Railway servant or by any other person, and is liable to prosecution under the Railway Act.

Trespassing.
Same as Rule 50.

22. No carriago door shall be opened, while the train is in motion.

Carriage door.
Same as Rules 108 and 197.

23. Where the block system is not in operation, no train or engine shall be allowed to follow any other train or engine on the same line within ten minutes, unless it has been ascertained that the preceding train has arrived at the next station in advance.

Trains following.
Same as Rules 127 and 255.

24. Where the line is not worked under the block system, no passenger train shall follow a goods train, nor shall a fast goods train follow a stopping passenger train from a station within fifteen minutes, nor even then, until the engine driver has been properly warned of the time of the departure of the preceding train, and where it will next stop. But in case the distance to the next station in advance exceeds ten miles, the interval must be increased under special instruction of the authorized officer.

Trains following.
Same as Rule 128 and 256.

25. Fixed distant signals must be constructed to exhibit danger in case of any failure of their connections.

Distant signals to fly at danger.

26. Every portion of the permanent-way must be inspected daily on foot by some authorized person responsible for its condition; and bridges and all other works (including signals and signal wires) must be regularly inspected in accordance with rules laid down by the authorized officer.

Road to be inspected.
Same as Rule 290.

27. Special rules shall be laid down by the authorized Officer for dealing with cases of fires in trains.

Fires in trains.

28. On the double line should an accident block one of the lines of Railway, so as to necessitate the passing of all up and down trains on a single line, immediate steps must be taken to establish single line working, on the rules adopted by each Railway for working in such cases.

When line is blocked.

29. Drivers with engines or trains must run within the limits of speed fixed for the section of the line upon which they are running.

Speed of trains.
Same as Rule 265.

These limits are not on any line to exceed, on the 5 feet 6 inch gauge, for passenger trains, sixty (60) miles an hour, and for goods and mixed trains thirty (30) miles an hour. On the metregauge, or other narrow gauge, these limits are not be exceeded—for passenger trains, forty (40) miles an hour, and for goods and mixed trains, twenty (20) miles an hour.

30. Drivers with engines or trains must not make up between any two stations more time than is allowed to be made up in that distance by an authorised officer.

Making up time.
Same as Rule 266.

31. For the purposes of the Railway Act, the following are declared to be dangerous goods:—

Dangerous goods.

| | | | |
|---|---|---|---|
| Carbolic Acid. | Aquafortis. | Coloured Fires. | Gun-Cotton-powder |
| Fusel Oil. | Bromine. | Congreve Matches. | Lathofracteur. |
| Kerosine Oil. | Chloride of Sulphur. | Crackers. | Lucifer Matches. |
| Napthalin. | Chloroform. | Combustibles. | Nitrated gun-cotton. |
| Paraffine. | Fluoric Acid. | Cotton powder. | Nitroglycerine and its compounds. |

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| | | | |
|---|---|---|---|
| Petroleum, and other Hydrocarbon Oils. | Glacial Acetic Acid. | Chlorate mixture. | Phosphorous. |
| Rangoon Oil. | Mineral Acid, such as Muriatic Acid; Nitric Acid; Sulphuric Acid or Oil of Vitriol. | Detonators. | Percussion caps. |
| Wood Naptha. | Ammunition. | Dynamite. | Schultze-gunpowder. |
| Muriate of Tin. | Amorphous Phosphorous. | Firework composition. | Tubes for firing explosives. |
| Nitrate of Iron. | Cartridges. | Fireworks. | Vesuvians. |
| Perchloride of Iron. | | Fog signals. | War rockets. |
| Solution of Ammonia. | | Fuze. | Explosive chemicals. |
| Sulphate of Indigo, concentrated. | | Gun-cotton. | All other explosives. |
| | | Gun-powder. | |

Supply of Rules.

32. Copies of the General Rules and Regulations must be supplied to Railway servants in accordance with Rules 39 and 40.

## SECTION III.

### Rules generally Applicable to Railway Servants.

Obedience to instructions.

33. Each person in Railway service must devote himself exclusively to the service of the Railway on which he is employed, residing at whatever place may be appointed, attending at such hours as may be required, paying prompt obedience to all persons placed in authority over him, and conforming to all the rules and regulations of the Railway.

Leaving service.

34. Any Railway servant who shall quit the service without having given one month's previous notice in writing, or the notice required by his agreement of service, shall forfeit all claim for pay due, and shall also be subject on conviction to the penalty prescribed in Rule 55.

Surrender of Railway property on leaving.

35. When any one leaves the service he must deliver up all Railway property in his charge; and no money due for wages will be paid until all articles, which have been supplied to him, shall have been delivered up in accordance with existing regulations. If not delivered up, or if any article be missing or be damaged from neglect or by improper use, the cost of such article, or of the repair of such damage shall be deducted from any pay due to him or from any moneys held for him by the Railway authorities, and if such moneys should be insufficient to meet the claim, the balance will become a debt recoverable at law.

Misconduct, &c.

36. All Railway servants are subject to immediate dismissal or suspension without pay for refusal of duty, disobedience of orders, negligence, misconduct, absence without leave, or for any neglect of these regulations, and may be held liable for all damages occasioned by misconduct or negligence; and shall be subject on conviction to the penalty prescribed in Rule 55.

Pay.

37. The pay of every servant always includes his services during all hours, whether early or late, as may be determined from time to time by his superior.

Intoxication.

38. Intoxication on duty renders the offender liable to dismissal; and also to criminal prosecution under the Railway Act.

Supply of books of rules.

39. A copy of these rules and regulations shall be supplied to each Railway servant who understands English, and who is in any way connected with the out-door working of the Railway, or with the working of trains.

Rules in the Vernacular.

Each Native subordinate who is in any way connected with the out-door working of the Railway or with the working of trains, and who may be unacquainted with the English language shall be provided with a translation, in such language as he understands, of these rules, or of the sections relating to his duties.

Servants to be acquainted with rules and keep copies.

40. Every servant must make himself acquainted with the rules or sections of the rules supplied to him, and must produce his copy when required. If the copy be lost, defaced, or torn, he must apply to his immediate superior for a new one which will be supplied at the cost of the servant. Any Railway servant who should have a copy and is found without one is liable to punishment.

Station Masters, Foremen, &c., responsible that their subordinates are acquainted with rules.

Station Masters, Foremen, and Gangers or Mistries of Platelayers, are responsible that the subordinates working under them are acquainted with all the rules relating to their respective duties.

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All persons must assist in carrying out rules.

41. Every servant is required to assist in carrying out the rules and regulations, and must immediately report to his superior any infringement thereof, or any occurrence affecting the safe and proper working of the Railway which may come under his notice.

Public safety.

42. The safety of the public must, under all circumstances, be the chief care of Railway servants.

Absence from duty.

43. No servant may, under any circumstances, absent himself from duty without proper permission.

Uniform.

44. Every person required to wear uniform is to appear in it, clean and neat, when on duty.

Conduct of servants.

45. The conduct of all servants must be prompt, civil, and obliging. They must at all times afford every proper facility for the business to be performed, and be careful to give correct information.

Improper language.

46. Swearing and immoral language, and violent altercations and threats, are strictly prohibited.

Ticket or pass necessary.

47. No Railway servant is allowed to travel on the Railway unless provided with a proper ticket, or free pass; nor is he allowed to ride on the engine, or in the brake-van, or in any vehicle in which luggage or parcels are conveyed, unless in the execution of his duty, without written permission from an authorized officer.

Gratuities.

48. No money or gratuity, in the shape of fee or reward, is allowed to be taken from passengers, or other persons, by any Railway servant, even although the regular hours of duty shall have expired, without the permission of the Railway Administration. Any infringement of this rule renders the offender liable to immediate dismissal, and on conviction to imprisonment for three years or to fine, or to both, under Sections 161 to 165 of the Indian Penal Code.

Spirituous liquors.

49. Drivers, Guards, and others directly connected with the working of trains, shall not when on duty be supplied with spirituous liquors at refreshment rooms, except under rules framed by an authorized officer.

Trespassing.
Same as Rule 21.

50. No trespassing upon the Railway shall be allowed, and no person other than a Railway servant shall be permitted to walk on the line unless provided with a license to do so, signed by an authorized officer of the Railway. If the trespasser, on being requested to quit, persists in remaining, he may be immediately removed from the Railway by any Railway servant or by any other person, and is liable to prosecution under the Railway Act.

Accident.

51. In the case of accident or obstruction the safety of passengers must be deemed of the first importance. The most prompt mode of communicating the circumstances to the next station, and to head-quarters, must be adopted; and all possible assistance may be demanded from, and must be promptly rendered by, any Railway servant whose services may be needed.

Lost articles.

52. Any lost article found on the Railway line and premises must be immediately made over to the nearest Station Master to be dealt with in accordance with special instructions. See Rule 159.

Special trains without notice.

53. The staff along the line must always be prepared for special trains without previous notice.

Defective signals to be reported.
Same as Rule 80.

54. Drivers, Guards, and others must invariably report to the nearest Station Master any defective signals, or obstruction of them, or neglect in working them.

Breach of rules.

55. Any person committing a breach of Rules 34, 36, 43, 48, and 47 shall be liable to a fine which may extend to fifty rupees, or, in default of payment of such fine, to simple imprisonment for a term which may extend to two months.

## SECTION IV.

### SIGNALS.

Colours.

56. RED is a signal of "DANGER"—Stop.

GREEN is a Signal of "CAUTION"—Go slowly.

WHITE is a signal of "ALL RIGHT"—Go on.

*Hand Signals.*

Hand Signals.

57. The hand signals shall be made by flags in the day and by lights at night or in foggy weather or in tunnels.

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58. When the line is clear, the Signalman must either stand erect with his flag in his hand,* or display a white flag, or white light.

59. If it be necessary to proceed with "Caution," the green flag will be elevated,* or the green light shown.

60. If it be necessary to proceed with "Caution" from any defect in the road or rails the green flag will be depressed,* or the green light shown.

61. If it be necessary to stop, the red flag will be shown and waved to and fro, the Signalman facing the engine,* or the red light shown.

62. In the absence of flags—

Both arms raised above the head denotes "Danger."*

One arm raised with the hand above the head denotes "Caution."*

One arm held in a horizontal position across the line of rails denotes "All Right."*

Caution with white light.

63. In the absence of a green light, a white light waved slowly from side to side denotes "Caution"—Go slowly.

Danger signal with any light.

64. In the absence of a red light, any light moved up and down or waved violently denotes "Danger"—Stop.

*Fixed Signals.*

Fixed signals.

65. The fixed signals are, for the most part, constructed with one or more Semaphore arms for day signals, and with one or more lamps for night: but disc and other signals are in some cases used.

Semaphore on the left hand side.

The day signal is invariably made by the arm on the left hand side of the post as seen by the Driver of an approaching engine.

66. The "Danger Signal" is shown in the day time by the arm on the left hand side of the post being raised to the horizontal position,* and by the exhibition of a *red* light by night.

67. The "Caution Signal" is shown in the day time by the arm on the left hand side of the post being placed half way to the horizontal position,* and by the exhibition of a *green* light by night.

68. The "All Right Signal" is shown in the day time by the arm on the left hand side being lowered to the post,* and by the exhibition of a *white* light by night.

Signals to be kept at "Danger."

69. Except at level-crossings worked under Rule 336, fixed signals are always to be kept at "Danger," and lowered or reversed only to allow a train or engine to pass.

*Station Signals.*

*(Also called "Main," or "Home" or "Platform" Signals).*

Station signals.
Same as Rule 231.

70. Station signals are placed at stations, junctions, sidings outside station limits, and signal boxes, and when at "Danger" no train or engine must pass them, or foul the crossings or points to which they apply, except as prescribed in Rules 72 and 77.

Junction signals.
Same as Rules 158 and 232.

71. Station signals at junctions must never be passed when at "Danger" by the train to which the signal applies.

Passing station signals.
Same as Rules 159 and 233.

72. Station signals at stations, sidings, and signal boxes (other than at junctions) must never be passed when at "Danger" unless the Driver is signalled past by hand by a person duly appointed by an authorized officer.

Station signals at "Danger."

73. Station signals must invariably stand at "Danger," except when lowered for an approaching train.

*Distant Signals.*

"Distant signals."

74. Distant signals are fixed at a considerable distance from the station, and are constructed to exhibit the "Danger" and "All Right" signals only, or "Danger" and "Caution" signals only.

Use of distant signals.

75. Distant signals must be replaced at "Danger" immediately they are passed by an engine.

Observance of distant signals.
Same as Rule 234.

76. When a distant signal is at "Danger," the Driver of an approaching train must bring his train to a *dead stop* outside of it, and must then ascertain if the line is clear to admit the train within it. If the line be clear he must at once draw the train cautiously within the distant signal so as to be protected by it, and then stop until signalled to the station in accordance with rules prescribed by the authorized officer. If, however,

* The Diagrams have been omitted.

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there is any obstruction on the line so near to the distant signal as to prevent the whole of the train from passing safely within it, the rules for the protection of trains when stopped outside station limits must be immediately carried out.—See Rules 179 and 240.

Signals apply to proper direction.
Same as Rule 235.

77. Station and distant signals apply only to trains or engines running in the proper direction, and must not be used for any other purpose. Trains or engines shunting from one main line to another, or shunting into or out of sidings connected with the main line, must, unless special signals are provided for the purpose of signalling such operations, be signalled past the station signal either verbally, or by hand lamp, or flag, as occasion may require: it being necessary, in such cases, that the Danger signal should be exhibited at the station signal as well as at the distant signal, for the protection of the train or engine so employed.

Defective signals.

78. Every Station Master, or other person, must in the event of any signal under his charge becoming defective, immediately report the case to his immediate superior, and to the nearest Permanent Way Inspector: and the Station Master shall place a competent man or men with the necessary hand signals and detonators to signal in lieu of such defective signal, until it is again in proper working order.

When the Station Master cannot provide proper men from his own staff, he must apply to the nearest Permanent Way Inspector for competent men.

Absence of signals.
Same as Rules 190 and 238.

79. Except at places specially exempted upon each railway, the absence of a signal at a place where a signal is ordinarily shown, or a signal imperfectly exhibited, must be considered a Danger signal, and treated accordingly and the fact reported to the Station Master.

Defective signals to be reported.
Same as Rule 54.

80. Drivers, Guards, and others must invariably report to the nearest Station Master any defective signals or obstruction of them, or neglect in working them.

*Detonating Signals.*

Supply of detonators.

81. Every Guard, Driver, Foreman of works, and Ganger or Mistry of Platelayers will be provided with detonators or fog signals which they are always to have ready for use whilst on duty; and every person in charge of a station must keep a supply of these signals in a suitable place, easy of access.

Use of detonators.

82. In thick, foggy, or tempestuous weather, and in case of obstruction, detonators must be used in addition to the regular day and night signals, in accordance with Rules 86, 87, 88, and 179.

Testing detonators.

83. Detonators must be carefully handled, as they are liable to explode if roughly treated. It is necessary to keep them well protected from damp. At least one from each person's stock must be tested, at intervals of not more than one month, to ensure that they are in good condition. Station Masters in charge of stations, where extra supplies are kept for Guards and others, shall test at least one from each box before issue.

Placing.

84. Detonators must be placed on the rail (label or brand upwards) and secured by bending the clasp round the upper flange of the rail. A detonator explodes with a loud report, when an engine passes over it and the Driver must stop as quickly as possible, and then proceed cautiously to the place of obstruction, or until he receives an "All Right" signal.

*Train Signals.*

Engine and train lights.
Same as Rule 248.

85. On both double and single lines between sunset and sunrise and during foggy weather, every train must exhibit a Red Tail Light and two Red Side Lights in rear of the train; and every engine running alone must exhibit at least one Red Tail Light; in both cases Head Lights prescribed by the authorized officer must be exhibited.

In the case of two or more engines running coupled together without a train, the first engine only must exhibit the prescribed Head Lights, and the last engine only must exhibit at least one Red Tail Light.

This rule does not apply to engines and trains doing station work.

## SECTION V.

### Signalling in foggy or tempestuous weather, or during Dust-storms.

Detonators.

86. In foggy or tempestuous weather two detonators 10 yards apart must be placed on the rail by the signalman or other trained servant selected by the Station Master at least one hundred yards outside the distant signal post, or, in the absence of a distant signal, at least seven hundred yards from the outside points. Drivers and Guards must report all cases of omission to do this.

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Renewal.

87. On the double line, detonators must be renewed immediately after a train has passed over them; and on the single line they must be placed before an approaching train is due or expected.

Supplies and relief of men.

88. The Station Master must see that fresh supplies of signals are sent to the men in place of those exploded: and in case it is necessary to keep a man out for any length of time, he must be relieved every six hours, and visited as often as practicable to ensure that he is on the alert.

Lamps to be lighted.

89. In foggy weather or in dust-storms, when the day signals cannot be seen plainly, the signal lamps must be lighted and kept burning.

## SECTION VI.

### Station Masters and Clerks in charge of Stations.

Responsibility of officers in charge of stations.

90. Every Station Master, or person in charge of a station, is answerable for the security and protection of the office and buildings, and of the Railway property there. He is responsible for the faithful and efficient discharge of the duties devolving upon all the Railway servants either permanently or temporarily employed at the station, or within its limits, and all such servants are subject to his authority and directions in the working of the line and station. He is also responsible for the general working of the station being carried out in strict accordance with all rules, regulations, and orders.

Station Masters under Traffic Department.

91. Station Masters will receive their orders from, and report to, such Traffic Officer as may be placed over them.

Arrival and departure of trains.

92. It is the special duty of every Station Master, or such other person as may be appointed for the purpose by an officer of the Traffic Department, to attend to the arrival and departure of trains.

Uniform.

93. The Station Master must always appear in uniform, when on duty, if required.

Daily inspection of Stations.

94. The Station Master, or such other person as may be appointed for the purpose, must daily inspect the station, and see that all rooms, latrines, and other offices, and platforms, &c., are kept neat and clean.

Office duties.

95. The Station Master must see that all orders and instructions are duly entered and executed, and that all books are regularly and neatly kept, and all returns properly prepared and submitted.

Civility to public.

96. The Station Master must take care that all the servants at his station behave respectfully and civilly to the public and passengers of every class.

Servants coming on duty.

97. The Station Master must take care that all the servants at his station come on duty at proper times in a clean and tidy state, and in uniform when so required.

Despatch of trains, &c.

98. Every exertion must be made for the expeditious despatch of the station duties, and for ensuring the safety of the public and punctuality of the trains. But no train conveying passengers must be started before the advertized time.

Misconduct to be reported.

99. The Station Master must report, without delay, to his superior officer, neglect of duty or other misconduct on the part of any of the Railway servants within station limits, and must also forward to his superior officers particulars of any complaint made by the public.

Notices at stations.

100. The Station Master must see that the proper time-bills and notices are exhibited and renewed when necessary, and that they are removed when out of date.

Absence.

101. The Station Master must not be absent without leave from his immediate superior, and in cases of illness he must inform his superior officer, and take care that some competent person is entrusted with his duties.

Stores.

102. The Station Master must be careful that all stores supplied for the station are prudently and economically used, and that there is no waste of oil, stationery, &c.

Trimming signal lamps.

103. The greatest care must be exercised in the cleaning, trimming and lighting of signal lamps, and Station Masters will be held responsible that this work is efficiently performed. The signal lamps must be lighted and extinguished in accordance with Rule No. 104.

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Lighting lamps.
Same as Rules 8 and 162.

104. Whenever any train or engine is timed to run, or from any cause is expected to run, on any portion of a line later than sunset and before sunrise, the signal lamps must be lighted at sunset. During twilight in the mornings and evenings, both day and night signals must be used. The signal lights must not be put out until broad day-light, except under instructions from an authorized officer.

In foggy or stormy weather, when the day signals cannot be seen plainly, the signal lamps must be lighted, and kept burning, and at such times both day and night signals must be used.

Lamps of passing trains.

105. The Station Master on duty must look at the head and tail lamps of every passing train, and, if necessary and possible, must see that they are retrimmed. But if the train does not stop at the station, and any of the lamps require trimming, he must immediately telegraph to the station in advance to stop the train and re-trim the lamps.

Roof lamps.

106. At stations where roof lamps are supplied to trains, Station Masters are responsible that the lamps are properly cleaned and trimmed, and that no smoky, defective, or badly burning lamp is placed in the train.

Name of station to be called out.

107. The Station Master is responsible that, immediately on the stopping of each passenger train, the name of the station is called out along the train in a distinct and audible manner, and that the station servants pay immediate attention to any indication shown by the passengers of their desire to alight.

Carriage doors.
Same as Rules 22 and 197.

108. No carriage door shall be opened while the train is in motion.

Trains overrunning or stopping short.
Same as Rules 193 and 254.

109. When a passenger or mixed train has come to a stand at a station—whether alongside, beyond, or short of the platform—the Driver must not move it for any purpose whatever, except upon instructions from the Guard, under orders of the person in charge of the Station. The signal for the train to again move must not be given by the Guard, until he has satisfied himself that no passenger is getting into, or out of the train and that all the carriage doors are closed. Before moving his train, the Driver must sound his whistle sharply and distinctly.

Load of trains.

110. The Station Master must leave it to the discretion of the Driver to determine what load the engine can take, but every instance of refusal to take the regulation load must be reported to the Traffic Officer.

Securing stock in sidings.

111. The Station Master is responsible that vehicles standing at the station or sidings are properly secured, in accordance with rules prescribed by the authorized officer, and scotch blocks, where provided, fastened.

Safety points.

112. The Station Master is responsible that all safety points and catch sidings, when it is not necessary that they should be opened, are closed against the line which they are intended to protect.

Facing points.
Same as Rule 151.

113. Facing points must in all cases be securely fastened or held for the passage of trains or vehicles.

Unfit vehicles.

114. No vehicle, which is pronounced unfit by the Carriage and Wagon Examiner, shall be run on a train; and no vehicle which has been off the road shall be allowed to run on the line between stations, until it has been examined and passed by a competent Examiner, except in the case of derailment outside station limits, when, if the Driver considers it safe, the vehicle may be taken slowly to the next station.

Load of vehicles.

115. No vehicle shall be loaded beyond its marked carrying capacity.

Protection of lines obstructed.

116. Before the commencement of any loading or other operation, by which any line of rails, in use for traffic purposes, may be fouled or obstructed, the person in charge of such operation, must obtain the permission of the Station Master, who must see that all necessary steps are taken for the protection of traffic during such obstructions.

Loading vehicles.

117. Carriages, machinery, timber, and other large articles in open trucks, must be loaded within the authorized loading dimensions.

Dummy wagon.
Same as Rule 212.

118. When the jib of a crane or a load projects beyond its truck, whether standing in a yard or on a running train, it must be protected by a dummy, which dummy may be loaded.

Shunting.

119. Station Masters must see that the shunting of trains, or crossing from one line to another, is performed only at such times and in such manner as will not incur danger.

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120. No engine or vehicle must be shunted or moved so as to obstruct the main line, until the proper signals have been exhibited, in one or both directions as may be necessary; and care must be taken, when the main line is about to be obstructed, after a distant signal has been placed at "Danger" for the purpose of protecting it, that sufficient time is allowed to elapse for any approaching engine or train which may have been near to or within such signal before it was so placed at "Danger" to pass before the obstruction takes place.

Shunting operations to be protected.
Same as Rule 184.

121. Should any vehicle or portion of a train escape from a station, immediate steps must be taken to warn the other station concerned, and prevent accidents as far as practicable.

Vehicles escaping.

122. When vehicles are shunted at places situated on steep gradients, proper precautions must be taken to prevent any vehicle from running down the incline; a sufficient number of brakes must be put on, and sprags or hand scotches used, when necessary, to prevent the possibility of any vehicle running away. At such places a supply of scotches must be kept for the purpose. See Rule 210.

Shunting on inclines.

Fly shunting.
Same as Rules 188 and 258.

123. Fly shunting of vehicles against loaded passenger trains, or of vehicles containing passengers or live stock, is strictly prohibited.

124. The Station Master is responsible that all points, gates, and signals at his station are in proper working order. He must report the particulars of any defects to the nearest Permanent Way Inspector, and must advise his immediate superior.

Points and signals.

125. All vehicles shunted off at stations as empties must be carefully searched. The windows and lampholes of all empty compartments must be closed when the carriages are standing on the sidings at the station. See Rule 200.

Vehicles to be searched and windows to be closed.

126. Before a train starts, care must be taken that all carriage doors are fastened. The signal to the Driver to start must be given by the Guard, upon receiving intimation from the person in charge of the station, that all is right for the train to proceed.

Starting of trains.

But no train shall be started until the rules of the system of working have been complied with. See Rule 171.

127. Where the block system is not in operation, no train or engine shall be allowed to follow any other train or engine on the same line within ten minutes, unless it has been ascertained that the preceding train has arrived at the next station in advance.

Interval between trains.
Same as Rules 23 and 255.

128. Where the line is not worked under the block system, no passenger train shall follow a goods train, nor shall a fast goods train follow a stopping passenger train, from a station within fifteen minutes, nor even then, until the Driver has been properly warned of the time of the departure of the preceding train, and where it will next stop. But in case the distance to the next station in advance exceeds ten miles the interval must be increased under special instructions of the authorized officer.

Trains following each other.
Same as Rules 24 and 256.

129. No passenger train shall be stopped at a station where it is not timed to call, for the purpose of taking up or setting down passengers, without special authority.

Trains not to stop where not timed.

130. At stations where Carriage Examiners are kept, the Station Master, before starting the train, must satisfy himself that the examination of it has been completed, and that the train is all right and fit to proceed. Where Examiners are not kept, steps must be taken to remedy any defects that may be observed in the running of vehicles by supplying oil or grease to the axleboxes where required, or removing the defective vehicle from the train when necessary.

Examination of trains.

131. In case of obstruction or accident, the Station Master must obtain all necessary assistance as soon as possible, and report the occurrence by telegraph, or by the most expeditious means, to the next station on the other side of the accident, so that notice may be given to the Drivers and Guards of approaching trains. See Rule 186.

Accidents.

132. The Station Master nearest to the place at which any accident attended with loss of human life, serious injury to person or property, or any accident of a description usually attended with such loss or injury, occurs, must without unnecessary delay, give notice in writing or by telegraph of such accident to the nearest Magistrate and to the officer in charge of the Police Station in the jurisdiction of which the accident occurs, or to such other Magistrate or Police Officer as the Local Government from time to time appoints in this behalf.

Accidents to be reported.

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The Station Master must also report to officers of the Railway all accidents in accordance with special instructions.

Train working between stations.
Same as Rules 201, 279, and 315.

133. In case a train may have to stop between stations, to take up or put down material, the permission of the Station Master of the last station before the stoppage has to be made, must be obtained, before the train leaves such station. The Station Master must take care to give all necessary instructions.

No person to travel without ticket.

134. No person shall be allowed, without proper authority, to enter any carriage for the purpose of travelling therein unless the fare has been paid and a ticket obtained. See Rule 199.

Passenger committing offence.

135. If any passenger shall refuse, or be unable, to produce a proper ticket, or shall commit any other offence, the case must be immediately investigated by the Station Master, and he is to exercise his discretion as to the proceedings to be taken, always reporting to his immediate superior.

Detention of offenders.

136. The power of arrest and detention is to be exercised with the greatest caution, and never where the address is given, and there is no good and sufficient reason to doubt its correctness; or adequate security is offered for appearance to answer a charge. When it shall be necessary to detain any person, such detention shall not continue for a larger period then is absolutely necessary, but such person must be conveyed before a Magistrate with as little delay as possible.

Discretion to be used.

137. As it is the intention which constitutes the offence, caution and discretion must be used in treating different cases, as it frequently occurs that passengers travel, unintentionally, beyond the distance for which they have paid their fares. In such cases they may be allowed to return to the station for which they booked on payment of the ordinary single fare for the distance overridden, provided they return by the next train, and do not, in the interval, leave the railway premises.

Passengers without tickets.

138. Passengers not producing their tickets are required to pay the fare from whence the train started, until enquiry can be made in order to ascertain whether the fare had been previously paid or not; in every case the circumstances must be enquired into without delay and reported. See Rule 199.

Lost property.

139. An account of all unclaimed luggage, and any lost property found on the line and on the Railway premises, must be kept by the Station Master, and all such must be dealt with in accordance with special instructions. See Rule 52.

Disorderly persons.
Same as Rule 17.

140. In the event of any person being drunk and disorderly, or causing annoyance to others, the Station Master is to use all reasonable means to stop the annoyance, and if the offender persists, the Station Master is to have him removed from the Railway premises, and the offender is liable to prosecution under the Railway Act.

Smoking on Railway premises.
Same as Rule 16.

141. Any person found smoking or having an open light or fire in goods sheds or store yards, or who persists in smoking after being warned by a Railway servant or Police Officer to desist on any other portion of the Railway premises where such practice may be deemed dangerous by the authorized officer, shall be liable to immediate removal from the Railway premises, and to a fine which may extend to fifty rupees, or in default of payment of such fine, to simple imprisonment for a term which may extend to two months.

Lights in vehicles.

142. No unprotected light shall be allowed in any Railway vehicles.

Infectious diseases.
Same as Rules 12 and 202.

143. No person suffering from an infectious disease shall enter a Railway carriage or premises without previously notifying to the Station Master that he is so suffering, and obtaining from him permission to enter under special instructions.

Attendants.
Same as Rules 13 and 203.

144. Any one being in attendance on a person suffering from an infectious disease is subject to the same restrictions while travelling by Railway as if he himself were suffering from the disease.

Reserved compartment for infectious diseases.
Same as Rule 204.

145. No person suffering from an infectious disease is to be allowed to travel in the same compartment with other passengers, but must take and pay for reserved accommodation; and special precaution is to be taken against the infection being communicated to other persons on the Railway premises.

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146. Any person found suffering from an infectious disease in a Railway carriage, or in any place on a Railway where there is likelihood of the infection spreading, and who has not obtained the permission of the Station Master under Rule 12, is to be removed from the Railway premises, and shall, on conviction under Section 268 of the Indian Penal Code, be liable to imprisonment for six months, or to fine or to both, or on conviction under Section 270 of the Indian Penal Code, be liable to imprisonment for two years, or to fine, or to both.

Power to remove persons suffering from infectious disease.
Same as Rule 205.

147. If any Railway carriage has been entered by a person suffering from an infectious disease, such carriage must be disinfected immediately after it has arrived at its destination, and no passenger shall be allowed into it until the disinfection has been completed.

Disinfection of carriages.
Same as Rule 206.

148. Prisoners and persons afflicted with insanity, must not be allowed to mix with other passengers, but must be placed, with their escort, in a prison-van or separate compartment upon reserved accommodation being paid for.

Prisoners.
Same as Rule 207.

149. No engine, or other vehicle, the property of a private owner, shall be allowed to enter upon the main line, except under special arrangement.

Private vehicle.

## SECTION VII.

### Pointsmen and Signalmen.

150. Pointsmen must be careful to keep their points clear, and whenever a train or engine has passed, they must remove anything that may have got within the points so as to prevent them from closing.

Care of points.

151. Facing points must, in all cases, be securely fastened or held for the passage of trains or vehicles.

Facing points.
Same as Rule 113.

152. Points must not under any circumstances be fastened in any other than the manner prescribed by an authorized officer.

Points.

153. Whenever points, crossings, or guide rails are injured, or damaged, the Pointsman must immediately report the circumstance to his superior officer, and, if possible, to the nearest Permanent Way Inspector.

Injured points to be reported.

154. Signalmen and Pointsmen must not leave the signals or points of which they have charge during their period of duty.

Regular attendance when on duty.

155. Men in charge of signals must pay particular attention to the rules for working signals.

Attention to signal rules.

156. All signals must be kept ready for immediate use. Every man who has charge of, or uses signals, must bring any defect to the notice of his superior.

Signals ready for use, &c.

157. Signalmen and pointsmen must have with them, when on duty, flags and hand signal lamps, which must be lighted when necessary.

Hand signals.

158. Station signals at junctions must never be passed when at "Danger" by the train to which the signal applies.

Junction station signals.
Same as Rules 71 and 232.

159. Station signals at stations, sidings, and signal-boxes (other than at junctions) must never be passed when at "Danger," unless the Driver is signalled past by hand by a person duly appointed by an authorized officer.

Station signals other than at junctions.
Same as Rules 72 and 233.

160. No line shall be obstructed or occupied by shunting or otherwise, until the signals applicable to it have been placed at "Danger."

Obstruction of line.

161. Should any impediment or obstruction exist upon the line within the sight or knowledge of the Pointsman or Signalman, he must exhibit the "Danger" signals, and must not allow any train or engine to pass in that direction, until such impediment or obstruction has been removed, and the line made clear and safe; and he must, as soon as practicable, take steps to report the obstruction to his superior officer.

Signals in the case of obstruction.

162. Whenever any train or engine is timed to run, or from any cause is expected to run, on any portion of a line later than sunset and before sunrise, the signal lamps must be lighted at sunset. During twilight in the mornings and evenings, both the day and night signals must be used. The signal lights must not be put out until broad daylight, except under instructions from an authorized officer.

Signal lamps to be lighted at sunset.
Same as Rule 8 and 104.

In foggy weather, when the day signals cannot be seen plainly, the signal lamps must be lighted, and kept burning, and at such times both the day and night signals must be used.

Foggy weather.

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Passing trains to be observed.

163. If a signalman or Pointsman observe anything wrong or unusual in a passing train, he must report the circumstance to his superior: but if it is of such a nature as to involve danger to the train or the public, he must at once take all practicable steps to stop the train.

## SECTION VIII.

### GUARDS.

Attendance at station.

164. Every Guard must be at the station from which he is to start at the time appointed for his attendance, and must have with him a copy of these regulations and of the working time-tables of the lines over which he has to run.

Equipment.

165. Every Guard must have with him the equipment and stores prescribed by the authorized officer.

To receive instructions from Station Master.

166. Guards will receive instructions from the Station Master, or other authorized officer, to whom they must apply for anything necessary for the working of their trains.

Inspection of train.

167. Guards are responsible that their brakes and lamps are in good working order, and that the lamps are trimmed and lighted and brightly burning, between sunset and sunrise, and during a fog; also that the vehicles of the train are in good order, and properly coupled up, and that the cord or other appliance for communication between Guard and Driver, if provided, is in order and properly arranged throughout.

Train under control of Guard.

168. The train when in motion is under the control of the Guard, when there is only one, and of the Head Guard when there are more than one. The passengers and property in the train are under his charge; he is responsible for the safety and regularity of the whole; he must regulate his time-piece in accordance with authorized rules.

Head Guard to be obeyed.

169. When there are two or more Guards or Brakesmen with a train, they must obey the instructions of the Head Guard.

Guards to travel in their vans.

170. Each Guard must ride in his proper van, and not on the Engine, nor in a carriage or wagon, except under special circumstances.

To start trains.

171. The signal for starting a train must be given to the Driver by the Guard upon receiving the necessary authority in accordance with the system adopted for working the Railway. See Rule 126.

Exchange Signals.

172. After each train has left the platform, and before it reaches the distant signals, the Guard and the Driver must exchange signals with each other. This exchange of signals must also be made whenever a train runs through a station without stopping. The Driver must stop if the proper signals are not exchanged.

To keep a good look-out.

173. Every Guard when travelling must keep a good look-out, and should he see any reason to apprehend danger, he must use his best endeavours to attract the attention of the Driver and give notice to him of the apprehended danger.

Driver's signal to Guard.

174. In the absence of special rules to the contrary, when the Driver gives three or more short sharp whistles, or sounds the brake whistle (when a special whistle is supplied for that purpose), or applies the communication, where such exists, the Guard, or Guards, must immediately apply the brakes.

Rear-brake on steep inclines.

175. In travelling down steep inclines, Guards must, in order to steady the train, assist the Driver with their brakes if required.

Passengers not to ride outside.

176. The Guards must not allow any person to ride outside the carriages, nor must they permit any unauthorized person to ride in any compartment or vehicle not intended for the conveyance of passengers except under special arrangements.

Carriage door to be closed.

177. Guards must see that the doors of the carriages are properly closed.

Guards to prevent breach of rules.

178. Guards must exert themselves to prevent any breach of the regulations by passengers or others, and report any such breach that comes to their notice.

Train stopping outside station limits.
Same as Rule 240.

179. Except as provided in Rule 180, when a train has been stopped, from any cause, outside station limits on the double line, the head Guard must go or see that a competent person be sent back, showing danger hand signals, having with him detonators (to be used by day as well as by night) to stop any train approaching on the same line of rails.

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The person going to protect the train, must place upon the rails, on which the train has been running, two detonators ten yards apart, at a distance of three quarters of a mile on a gradient of one in two hundred and fifty or steeper, falling in the direction of the train, or half a mile on any flatter gradient, or on the level, and he must also, on his way out, place one detonator at half those distances respectively. He must remain exhibiting his hand danger signal at the further distance, until recalled by engine whistle, or otherwise, when he must leave down the two most distant detonators, taking up the other on his way back.

On a double line, should both roads be fouled, detonators and hand signals must be used on each line in the manner prescribed, and all trains approaching from either direction must be stopped.

In the case of a single line, the train must be protected, in the same manner, in front as well as in rear.

If one, or more, trains approach the obstruction, the train which last arrives must be protected in the rear in the manner prescribed, and when the other train, or trains, are thus protected in that direction, the person, or persons who protected such other trains, can return, and the intermediate detonators may be removed.

When the mixed gauge is laid, detonators must be placed on each rail, both for the broad and the narrow gauge trains.

On the single line, the rear of a train must be protected first, and in cases on the double line, when both roads are obstructed, and men are not available to be sent out in both directions at the same time, the Guard must use his discretion as to which road should be first protected.

When necessary, a Fireman must be sent out with the signals for the protection of the train.

Should the stoppage occur to an engine not attached to a train, the driver must take the prescribed precautions for its protection.

On the double road, should both lines be fouled, the Driver must aid the Guard, and at once display a "Danger signal" to the front, and, if the engine is not disabled, it should be used to convey the person who goes forward to the proper distance.

When starting a train which has stopped outside station limits, the Guards and Driver must exchange signals. Unless these signals are exchanged, the Driver must stop.

Ballast Train, &c.
Same as Rule 241.

180. Ballast or other trains, the working of which requires that they must stop outside station limits, may be protected by special regulations ; but, unless so especially provided for in each case, they must be protected as prescribed in Rule 179.

Driver not aware of accident.

181. Should an accident to a train cause an obstruction, and the Driver run forward without being aware of it, the Guard must take steps in accordance with Rule 179 to protect either or both lines as may be necessary.

Portion of train left on Main Line.
Same as Rule 243.

182. When a portion of a train is left on the line outside station limits, from accident or inability of the engine to take the whole forward, the Guard must put down the brakes, and carefully secure the rear portion so that it will remain stationary, and it must be protected in the manner prescribed in Rule 179. The Driver must not return for the second portion on the same line, except upon written instructions from the Guard, and if upon the double road no such written instructions are given, the engine must return upon the proper line, under the rules of the system adopted for working, and cross at the nearest point to the rear of the part left, which he must work to a station or siding where he can again shunt to the front of the train. If it is necessary for the engine to return to the rear portion of the train on the same line, the driver must, before starting with the front portion, obtain from the Guard the necessary written instructions, authorizing him to do so, and the Guard must, in such cases, continue to protect his train in the rear, and must not permit a following train to move it.

When there are two Guards with a train so divided, the second Guard, or, if there is only one Guard, the Fireman must, if practicable and safe to do so, ride upon the last vehicle of the front portion until it is placed in a siding.

Engine not to push train.
Same as Rules 6 and 246.

183. No engine shall be allowed to push a train, or portion of a train, or fuel truck, unless within station limits, or under special instructions.

Shunting operations to be protected.
Same as Rule 120.

184. No engine or vehicle must be shunted or moved, so as to obstruct the main line until the proper signals have been exhibited in one or both directions, as may be necessary ; and care must be taken, when the main line is about to be obstructed, after a Distant Signal has been placed at "Danger" for the purpose of protecting it, that sufficient time is allowed to elapse for any approaching engine or train (which may have been near to or within such signal, before it was so placed at "Danger") to pass before the obstruction takes place.

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Train parting.
Same as Rule 242.

185. Should any part of a train become detached when in motion, care must be taken not to stop the front part before the rear portion has been stopped, and the rear Guard must promptly apply his brake to prevent a collision with the front portion.

To report accident.

186. In the case of accident or obstruction to trains, the Guard must take steps to report in the quickest possible manner to the nearest Station Master, and if the telegraph be injured, or if there be no telegraph, the report must be sent to the Stations on both sides. See Rule 131.

Lamps of shunted trains.

187. When a train is shunted for another train to pass, the Side Lamps must be reversed, or so disposed of as not to exhibit the Red Light to a following train.

Fly shunting.
Same as Rules 123 and 258.

188. Fly shunting of vehicles against loaded passenger trains, or of vehicles containing passengers or live-stock, is strictly prohibited.

Irregularity in working of signals to be reported.

189. Should a Guard observe any irregularity in the working of signals, or any obstruction on the line, or any defect in the signals, works, permanent-way, or telegraph, he must report the same at the first station at which the train stops, and also in his journal; and must further report any unusual circumstance which he may have observed during the journey. But should the circumstance involve danger, he must use every endeavour to stop the train at the next station or signal box, in order to report it.

Defective signals to be reported.

Absence of signal.
Same as Rules 79 and 238.

190. Except at places specially exempted upon each Railway, the absence of a Signal at a place where a Signal is ordinarily shown, or a Signal imperfectly exhibited, must be considered a Danger Signal, and treated accordingly, and the fact reported to the Station Master.

Guard's orders.

191. Every Guard must make him himself acquainted with all instructions requiring his attention on those parts of the line over which he has to work.

Brake on trains.

192. A brake must be placed at the rear of every train unless special instructions are given to the contrary.

Train overruns, or stops short of a station.
Same as Rules 109 and 254.

193. When a passenger or mixed train has come to a stand at a station—whether alongside, beyond, or short of the platform—the Driver must not move it for any purpose whatever, except upon instructions from the Guard under orders from the person in charge of the Station. The signal for the train to again move must not be given by the Guard, until he has satisfied himself that no passenger is getting into, or out of, the train, and that all the carriage doors are closed. Before moving his train, the Driver must sound his whistle sharply and distinctly.

Re-booking by same train.

194. The Guard must take care that passengers enter the proper carriages for the places to which they are booked, and that no passenger is allowed to leave the train for the purpose of re-booking by the same train with a view to evade payment of the proper fare.

Tail and Side Lamps.

195. Should a vehicle be attached to, or detached from, the rear of a train at an intermediate station, the Guard, or if there be more than one, the Guard in the rear van, must see that the Tail and Side Lamps are in their proper places on the train.

Defective carriages.

196. Should complaint be made of the running of any carriage, the Guard must report it to the Station Master, and enter the particulars in his journal giving the number and class of carriage; but if the Guard has reason to apprehend danger from such carriage before it can be inspected, he must have it detached from the train.

Door to be closed.
Same as Rules 22 and 108.

197. No carriage door shall be opened while the train is in motion.

Ladies.

198. When ladies are travelling alone, the Guards are to pay every attention to their comfort; and in placing them in the train they must, if requested, endeavour to select a carriage (according to the class of their tickets) in which other ladies are travelling.

Proper booking, &c.

199. The Guard must not allow any passenger or parcel to be conveyed by the train unless properly booked; and, if he has reason to suppose that any passenger is without a ticket, or is not in the proper carriage, he must request the passenger to show his ticket, reporting to the Station Master, or person in charge, any irregularity he may detect. When a passenger is desirous of changing from an inferior to a superior class of carriage, on payment of the difference in fare, the Guard must have this arranged by the Station Master or person in charge. See Rules 134 and 138.

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Windows of empty compartments to be closed.

200. The windows and lamp-holes of all empty compartments must be closed not only while the carriages are standing at stations, but also when the trains are running. See Rule 125.

Train working between stations.
Same as Rules 133, 279, and 315.

201. In case a train may have to stop between stations, to take up or put down material, the permission of the Station Master of the last station before the stoppage has to be made must be obtained before the train leaves such station. The Station Master must take care to give all necessary instructions.

Infectious diseases.
Same as Rules 12 and 143.

202. No person suffering from an infectious disease shall enter a railway carriage or premises without previously notifying to the Station Master that he is so suffering, and obtaining from him permission to enter under special instructions.

Attendants.
Same as Rules 13 and 144.

203. Any one being in attendance on a person suffering from an infectious disease is subject to the same restrictions while travelling by Railway as if he himself were suffering from the disease.

Reserved compartment for infectious diseases.
Same as Rule 145.

204. No person suffering from an infectious disease is to be allowed to travel in the same compartment with other passengers, but must take and pay for reserved accommodation, and special precaution is to be taken against the infection being communicated to other persons on the railway premises.

Power to remove persons suffering from infectious disease.
Same as Rule 146.

205. Any person found suffering from an infectious disease in a railway carriage or in any place on a railway where there is likelihood of the infection spreading, and who has not obtained the permission of the Station Master under Rule 12, is to be removed from the railway premises, and shall, on conviction under Section 269 of the Indian Penal Code, be liable to imprisonment for six months or to fine, or to both, or on conviction under Section 270 of the Indian Penal Code, be liable to imprisonment for two years, or to fine, or to both.

Disinfection of carriages.
Same as Rule 147.

206. If any railway carriage has been entered by a person suffering from an infectious disease, such carriage must be disinfected immediately after it has arrived at its destination, and no passenger shall be allowed into it until the disinfection has been completed.

Prisoners and insane persons.
Same as Rule 148.

207. Prisoners and persons afflicted with insanity must not be allowed to mix with other passengers, but must be placed with their escort in a prison-van or separate compartment upon reserved accommodation being paid for.

Disorderly passengers.

208. In the event of any passenger being drunk or disorderly, or causing annoyance to others, the Guard is to use all reasonable means to stop the annoyance: failing which he must, for the safety and convenience of all, have him removed from the train at the first station, and the offender is liable to prosecution under the Railway Act.

Duties of Guard in charge.

209. The Guard in charge must satisfy himself before starting, and during the journey, that the train is properly loaded, marshalled, coupled, lamped, greased or oiled, and sheeted, that lashings and chains are secure, also that the brakes are in good working order, and, as far as he can ascertain, that the train is in a state of efficiency for travelling, and has the proper signals attached to it. He must carefully examine the loading of any vehicles he may attach on the way, and should any vehicle become unsafe from the shifting or derangement of the load, he must, at once, have the load readjusted, or the vehicle removed from the train.

Attaching and detaching vehicle.

210. When from any cause a train has been brought to a stand on the line, where the line is not level, and it is necessary for the engine to be detached from the train for the purpose of attaching or detaching vehicles, the Guard must, before the engine is uncoupled, satisfy himself that the van-brakes have been put on securely, and, as an additional precaution, must pin down a sufficient number of other brakes, or carry out instructions as may be prescribed. See Rule 122.

Where line is level.

When the line is level, the van-brakes must be put on securely.

Travelling cranes.

211. Before attaching any travelling crane, the Guard must see that the jib is properly lowered and secured. It must, when practicable, be so placed that the jib will point towards the rear of the train.

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212. When the jib of a crane, or a load projects beyond its truck, whether standing in a yard or on a running train, it must be protected by a dummy, which dummy may be loaded.

Dummy Wagon. Same as Rule 118.

Delivery of train.

213. Guards must not leave their trains until they have been properly handed over.

## SECTION IX.

### DRIVERS AND FIREMEN.

Attendance.

214. Drivers and Firemen must be with their engines at such time before starting as the Locomotive Superintendent may require, and must satisfy themselves that their engines are in proper order.

Equipment.

215. Every Driver must have with him, at all times when on duty, such flags, lamps, tools, and other appliances as may be ordered by the Locomotive Superintendent from time to time.

Regulations and working time-tables.

He must also have with him a copy of these Regulations and the working time-tables in force upon the lines over which his engine has to run.

No unauthorized person to ride on engine.

216. No person other than the Driver and Fireman is to ride on the engine or tender without permission from a properly authorized Officer.

Whistle to be sounded.

217. Drivers must always sound the whistle before putting an engine in motion.

Engine in motion.

218. No engine shall be allowed to be in motion outside station limits unless both the Driver and Fireman are upon it.

Acquaintance with instructions.

219. Every Driver must make himself acquainted with all instructions requiring his attention on those parts of the line over which he has to work.

Drivers to receive orders from Guard.

220. The Driver must place his engine in front of the train not less than five minutes before the time of starting; after that time, and until the end of the journey, he will receive his orders from the Guard in all matters affecting the starting, stopping, or movement of the train; and he must promptly obey all orders or signals given to him, whether by the Station Master or the Guard, so far as the safe and proper working of his engine will allow.

To assist in forming train.

221. The Driver must afford such assistance with his engine as may be required for the formation, arrangement, and despatch of his train.

Firemen responsible.

222. Firemen must obey the orders of the Driver in all particulars; and they are held jointly responsible with the Driver for the proper observance of all Rules and Regulations.

To look back.

223. The Driver and Fireman must, frequently, during the journey, look back and see that the whole of the train is following in a safe and proper manner.

Starting.

224. The signal for starting a train must be given to the Driver by the Guard, but before starting, the Driver must have the permission prescribed by the rules of the system adopted for working the line, and must satisfy himself that the line before him is clear, and he must sound the whistle.

Protection of main line.

225. No engine shall enter upon or cross the main line without the permission of the person in charge of the points and signals, and the Driver must satisfy himself that the proper signal has been exhibited.

Engine-lamps.

226. The Driver must, before starting, see that his lamps are in good order, and that his engine carries the proper distinguishing lights, or other indicators of the train. At and after sunset, and during foggy weather, he must have the necessary lamps lighted. He is responsible that they are always in proper order and trimmed, and that when lighted, they burn brightly.

Look-out.

227. The Driver must keep a good look-out all the time the engine is in motion, and Firemen must also keep a look out, when not necessarily otherwise engaged.

In foggy weather and storms.

228. The Driver and Fireman must carefully observe all signals; and when from fog or storms, or any cause, the fixed signals are not visible, as soon as usual, every possible precaution must be used, especially in approaching stations and junctions, so that the train can be stopped short of any obstruction, should the signals be against it.

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229. The Driver must regulate the running of his engine as accurately as practicable according to the Working Time-table, so as to avoid extreme speed, or loss of time.

Speed.

230. No Driver shall run his engine with tender, or any portion of a train, or fuel truck foremost (except within station limits), without a written order, or unless in cases of unavoidable necessity, to be established by the Driver.

Tender foremost.
Same as Rule 9.

231. Station signals are placed at stations, junctions, sidings outside station limits, and signals-boxes, and when at "Danger," no train or engine must pass them, or foul the crossings or points to which they apply, except as prescribed in Rules 233 and 235.

Station signals.
Same as Rule 70.

232. Station signals at junctions must never be passed when at "Danger," by the train to which the signal applies.

Station signals at junctions.
Same as Rules 71 & 158.

233. Station signals at stations, sidings, and signal-boxes (other than at junctions) must never be passed when at "Danger," unless the Driver is signalled past by hand by a person duly appointed by an authorized officer.

Station Signals other than at junctions.
Same as Rules 72 & 159.

234. When a distant signal is at "Danger," the engine-driver of an approaching train must bring his train to a *dead stop* outside of it, and must then ascertain if the line is clear to admit the train within it. If the line be clear he must at once draw the train cautiously within the distant signal so as to be protected by it, and then stop until signalled into the station in accordance with rules prescribed by the authorized officer. If, however, there is any obstruction on the line so near to the distant signal as to prevent the whole of the train from passing safely within it, the rules for the protection of trains, when stopped outside station limits, must be immediately carried out. See Rule 240.

Distant signals.
Same as Rule 76.

235. Station and distant signals apply only to trains or engines running in the proper direction, and must not be used for any other purpose. Trains or engines shunting from one main line to another, or shunting into, or out of, sidings connected with the main line, must, unless special signals are provided for the purpose of signalling such operations, be signalled past the station signal, either verbally, or by hand lamp or flag, as occasion may require; it being necessary, in such cases, that the danger signal should be exhibited at the station signal, as well as at the distant signal, for the protection of the train or engine so employed.

Station and distant signals apply only to trains running in proper direction.
Same as Rule 77.

236. The Driver and Fireman must pay immediate attention to and obey all signals, whether the cause of the signal being shown is known to them or not.

Observance of signals.

The Driver must not, however, trust entirely to signals, but must, on all occasions, be vigilant and cautious.

237. A detonator explodes with a loud report when an engine passes over it, and the Driver must stop as quickly as possible, and then proceed cautiously to the place of obstruction, or until he receives the "All Right" signal. See Rule 84.

Train to be stopped on explosion of detonator.

238. Except at places specially exempted upon each Railway, the absence of a signal at a place where a signal is ordinarily shown, or a signal imperfectly exhibited, must be considered a danger signal, and treated accordingly, and the fact reported to the Station Master.

Signal imperfectly shown.
Same as Rules 79 & 190.

239. When, from any cause, an engine, or train without a Guard, is stopped upon the line outside station limits unprotected by fixed signals, the Driver must send his Fireman, or some other competent person with signals, to protect the engine or train during the time it is in such a position, in the manner prescribed for the Guard in Rule 240.

Engine without Guard.

240. Except as provided in Rule 241, when a train has been stopped, from any cause, outside station limits on the double line, the head Guard must go, or see that a competent person be sent back, showing danger hand signals, having with him detonators (to be used by day as well as by night), to stop any train approaching on the same line of rails.

Train stopping outside station limit.
Same as Rule 179.

The person going to protect the train must place upon the rails on which the train has been running, two detonators 10 yards apart, at a distance of three quarters of a mile on a gradient of one in two hundred and fifty $\left(\frac{1}{250}\right)$ or steeper, falling in the direction of the train,

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or half a mile on any flatter gradient, or on the level, and he must also, on his way out, place one detonator at half those distances respectively. He must remain exhibiting his hand danger signal at the further distance until recalled by engine whistle, or otherwise, when he must leave down the two most distant detonators, taking up the other on his way back.

On a double line, should both roads be fouled, detonators and hand signals must be used on each line in the manner prescribed, and all trains approaching from either direction, must be stopped.

In the case of a single line, the train must be protected in the same manner in front as well as in rear.

If one, or more, trains approach the obstruction, the train which last arrives must be protected in the rear in the manner prescribed, and when the other train, or trains, are thus protected in that direction, the person or persons who protected such other trains can return, and the intermediate detonators may be removed.

When the mixed gauge is laid, detonators must be placed on each rail, both for the broad and the narrow gauge trains.

On the single line, the rear of a train must be protected first, and in cases on the double line, when both roads are obstructed and men are not available to be sent out in both directions at the same time, the Guard must use his discretion as to which road should be first protected.

When necessary a Fireman must be sent out with the signals for the protection of the train.

Should the stoppage occur to an engine, not attached to a train, the Driver must take the prescribed precautions for its protection.

On the double road, should both lines be fouled, the Driver must aid the Guard and at once display a "danger signal" to the front, and, if the engine is not disabled, it should be used to convey the person who goes forward to the proper distance.

When starting a train which has stopped outside station limits the Guard and Driver must exchange signals. Unless these signals are exchanged the Driver must stop.

Trains working between stations.
Same as Rule 180.

241. Ballast or other trains, the working of which requires that they must stop outside station limits, may be protected by special regulations; but unless so specially provided in each case, they must be protected as prescribed in Rule 240.

Train parting.
Same as Rule 185.

242. Should any part of a train become detached when in motion, care must be taken not to stop the front part before the rear portion has been stopped, and the rear Guard must promptly apply his brake to prevent a collision with the front portion.

Portion of train left on Main Line.
Same as Rule 182.

243. When a portion of a train is left on the line outside station limits from accident or inability of the engine to take the whole forward, the Guard must put down the brakes and carefully secure the rear portion, so that it will remain stationary, and it must be protected in the manner prescribed in Rule 240. The Driver must not return for the second portion on the same line except upon written instructions from the Guard, and if, upon the double road, no such written instructions are given, the engine must return upon the proper line under the rule of the system adopted for working, and cross at the nearest points to the rear of the part left, which he must work to a station or siding where he can again shunt to the front of the train. If it is necessary for the engine to return to the rear portion of the train on the same line, the Driver must, before starting with the front portion, obtain from the Guard the necessary written instructions authorizing him to do so, and the Guard must in such cases continue to protect his train in the rear, and must not permit a following train to move it.

When there are two Guards with a train so divided, the second Guard, or, if there is only one Guard, the Fireman must, if practicable and safe to do so, ride upon the last vehicle of the front portion until it is placed in a siding.

Speed through facing points.

244. Drivers must not pass through facing points at a speed exceeding ten (10) miles per hour.

Signal to Guard.

245. In the absence of special rules to the contrary, when a Driver requires the assistance of the Guard's brake, he must give three or more short sharp whistles, or sound the brake whistle (when a special whistle is supplied for that purpose), and apply the communication where such exists. See Rule 174.

Engine not to push.
Same as Rule 6 and 183.

246. No engine shall be allowed to push a train, or portion of a train or fuel truck, unless within station limits, or under special instructions.

Train drawn by more than one engine.

247. When two or more engines are employed in drawing the same train, the Driver and Fireman of the leading engine are responsible for the observance of signals; the Drivers of the engines must watch for and take signals from the Driver of the leading engine.

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248. On both double and single lines, between sunset and sunrise, and during foggy weather, every train must exhibit a red tail light and two red side lights in rear of the train; and every engine running alone must exhibit at least one Red Tail Light; in both cases Head Lights prescribed by the authorized Officer must be exhibited.

Train lights.
Same as Rule 85.

In the case of two or more engines running coupled together without a train, the first engine only must exhibit the prescribed Head Lights, and the last engine only must exhibit at least one Red Tail Light.

This rule does not apply to engines and trains doing station work.

249. Whenever on the double line a Driver observes anything wrong on the road opposite to that on which he is running, he must sound his whistle and exhibit a "Danger" signal to any train he may meet, and stop at the first signal-box or station in order to report that which he has observed.

To signal train on opposite line.

250. Whenever on the double line a Driver observes a train following too closely any preceding train on the road opposite to that on which he is running, he must sound his whistle and exhibit a caution or danger signal as occasion may require, to warn the Driver of such following train.

Following too closely.

251. The Driver must start and stop his train steadily and without a jerk.

To start and stop with care.

He must exercise care in approaching all stations at which his train is required to stop, and in passing stations at which he is not required to stop.

In stopping his train, he must pay particular attention to the state of the weather and the condition of the rails, as well as to the length of the train; and these circumstances must have due weight in determining when to shut off steam.

252. Should another train be approaching, stopping at, or leaving the station, on the opposite line, or should shunting operations be going on, the Driver must, on approaching, and whilst passing through a station, sound the engine whistle.

Use of whistle.

The whistle must also be sounded on entering a tunnel and repeated in long tunnels.

253. On the double line, trains must invariably be run on the left hand road except under special instructions to the contrary.

Trains run on left hand road.

254. When a passenger or mixed train has come to a stand at a station—whether alongside, beyond, or short of the platform—the Driver must not move it for any purpose whatever, except upon instructions from the Guard under order of the person in charge of the station. The signal for the train to again move, must not be given by the Guard, until he has satisfied himself that no passenger is getting into, or out of, the train, and that all the carriage doors are closed. Before moving his train, the Driver must sound his whistle sharply and distinctly.

Trains over-running or stopping short.
Same as Rules 109 & 193.

255. Where the block system is not in operation, no train or engine shall be allowed to follow any other train or engine on the same line within ten minutes, unless it has been ascertained that the preceding train has arrived at the next station in advance.

Interval of time between trains.
Same as Rules 23 & 127.

256. When the line is not worked under the block system, no passenger train shall follow a goods train, nor shall a fast goods train follow a stopping passenger train from a station within fifteen minutes, nor even then, until the Driver has been properly warned of the time of the departure of the preceding train, and where it will next stop. But in case the distance to the next station in advance exceeds ten miles, the interval must be increased under special instructions of the authorized Officer.

Following trains.
Same as Rules 24 & 128.

257. Should a Driver observe any irregularity in the working of signals, or any obstruction on the line or defect in the signals, or any defect in the works permanent way, or telegraph, he must report the same at the first station at which he stops, and at the end of his journey he must also report any other unusual circumstance that he may have observed.

Defect in roads or signals.

But should the circumstance involve danger, he must stop at the next station or signal-box in order to report; and should it be necessary for the safety of the traffic, he must stop at once.

258. Fly shunting of vehicles against loaded passenger trains, or of vehicles containing passengers or live-stock, is strictly prohibited.

Fly shunting.
Same as Rules 123 & 188.

259. If an engine is running without a Guard, the Driver is responsible for carrying out all rules, and for taking all necessary precautions which the Guard is required to observe for the safe working and protection of trains.

Light engine.

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Train obscured by steam.

260. Should a Driver observe a train or engine obscured by steam or smoke, on the opposite line to that on which he is travelling or on a siding, he must sound his whistle and approach it cautiously, so as to be able to stop if necessary.

Platelayers' signals to reduce speed.

Same as Rule 274.

261. A green flag or a green light exhibited by Platelayers, indicates that speed must not exceed fifteen miles an hour, or such lower speed as may be ordered over the portion of line protected by such signal.

Lights on shunting engines.

262. Shunting engines employed in station yards and sidings must, after sunset and in foggy weather, carry the prescribed head and tail lights.

Water columns.

263. After taking water from tanks or water columns, Drivers must be careful to leave the hose or water-crane clear of the main line and properly secured.

Driver leaving engine.

264. The Driver when on duty at stations or on the line must not leave his engine unless it is absolutely necessary for him to do so, and, under no circumstances, without a man being left in charge of it.

Speed.
Same as Rule 29.

265. Drivers with trains or engines must run within the limits of speed fixed for the section of the line upon which they are running.

Making up time.
Same as Rule 30.

266. Drivers with engines or trains must not make up between any two stations more time than is allowed to be made up in that distance by an authorized officer.

## SECTION X.

### Inspectors, Platelayers, Gangers, and others employed on the Permanent way.

Duties of Inspectors.

267. The Inspector or person in charge of each district of the line will be held responsible for the condition of the permanent way and works in his district. He must keep an account of all materials used, and must see that none are wasted. He must also report promptly to the Engineer in charge of the district all accidents, and all defects in the road or works that may interfere with the safe running of trains.

Foremen.

268. In each gang of platelayers or men repairing the permanent way, there shall be a Foreman, Ganger or Mistry; and the Inspector of permanent way for the district must take care that every such man in charge of a gang is provided with a copy in the vernacular of the section of these Regulations, which relates to his duties, also with proper signals, a permanent-way gauge, and all necessary tools, which he must inspect at least once a month, and ascertain that the gauges are correct, and the tools and signals are in good order, and that no articles have been lost.

Rules to be explained.

269. Each Foreman, Ganger or Mistry is responsible that the subordinates working under him are acquainted with all the rules relating to their respective duties.

Lamps and signals to be supplied.

270. Each gang of platelayers or labourers must be supplied by the Inspector of permanent way for the district with two sets of flag signals, two hand signal lamps, and a proper number of detonators. Each Ganger will be held responsible for having his signals constantly in proper order and ready for use.

Observance of Regulations.

271. The Inspector must take care that all Regulations are observed, and report any departure from them to the Engineer.

Register of names.
Must summon men.

272. Each Inspector must have a register of the name and place of residence of all the Foremen and Gangers employed in his district, so that, in case of accident, he may be enabled to call upon them to summon their men immediately to assist in any way that may be required; and should any obstruction take place, caused by slips, or other sudden emergency, each Foreman or Ganger must immediately collect the men required.

ignals.

273. The signals to be used by the men engaged in repairing the permanent way, are red and green flags, and hand lamps and detonators. The flags must be used during daylight, the lamps after sunset, and in foggy weather, and the detonators when necessary by day and night.

The red and detonating signals indicate "Danger," and must be used only when it is necessary to stop a train. The green signal indicates "Caution," and must be used when it is necessary to slacken the speed of a train.

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274. A green flag or a green light, exhibited by Platelayers, indicates that speed must not exceed fifteen miles an hour, or such lower speed as may be ordered, over the portion of the line protected by such signal.

Signal to reduce speed. Same as Rule 261.

275. The permanent-way staff or others must not put in points and crossings without the written authority of the Engineer in charge of the district, and must not begin or perform any operation which will involve danger to trains or traffic without the previous permission of the Permanent-way Inspector, or other authorized competent person, who must himself be present to superintend such operation, and who is responsible that all necessary signals are shown and other precautions taken, as prescribed in Rules 276 and 277, as the case may be, before the commencement of work, and that such signals and precautions are continued until the line is again clear for trains or traffic. But in cases of emergency when it may be necessary for safety to replace or turn any rail or otherwise obstruct traffic before the Inspector can arrive, the Ganger or other person in charge of the gang must take all necessary steps to protect train and traffic as prescribed in Rules 276 and 277.

Permission of Inspector to commence work.

276. When it is necessary within station limits to change or turn a rail, in any manner to obstruct the line, or to do any work of a character to make the exhibition of a signal necessary, the permission of the Station Master must be first obtained by the Foreman, Platelayer, or Ganger, and the work must not be commenced until all necessary signals have been placed at "Danger," and the signals must remain in that position until the Station Master, or Ganger, is informed by the same Platelayer that the line is again clear and safe for traffic.

Work in station limits.

The Platelayers must, in addition, protect their operations by hand signals.

277. When outside station limits a rail has to be taken out, or the line is not safe from any cause, a "Danger" signal must be exhibited, and two detonators placed on the line, ten yards apart, at a distance of at least three-quarters of a mile on a gradient of one in two hundred and fifty or steeper, falling in the direction of the obstruction, and half a mile on a flatter gradient or on the level, in rear of the place of obstruction on the double line, and in both directions on a single line, and hand signals must also be exhibited at the place where the work is being done.

Work outside station limits.

278. Platelayers and labourers must not, except in case of emergency, or as provided in Rule 276, avail themselves of the Fixed Signals, and must, in all cases, use their own special signals for their own purposes.

Fixed Signals not to be used.

279. In case a train may have to stop between stations to take up or put down material, the permission of the Station Master of the last station before the stoppage has to be made, must be obtained before the train leaves such station. The Station Master must take care to give all necessary instructions.

Ballast train working between stations. Same as Rules 133, 201, 815.

280. When repairing, lifting the line, or performing any operation so as to make it necessary for a train to proceed cautiously, the Foreman or Ganger must send a man back at least a quarter of a mile, and as much further as the circumstances of the case render necessary, to exhibit the "Caution" Signal so as to be plainly visible to the Driver of an approaching train.

Signals when repairing line.

281. In no case, except when absolutely necessary, is a rail to be displaced or any other work to be performed, by which an obstruction may be made to the passage of the train during a fog or storm; and the times for effecting repairs which involve the stopping of trains must, as far as practicable, be so selected as to interfere as little as possible with the passage of the traffic.

Rails not to be displaced in fog.

282. A lorry or truck, loaded or empty, used for conveying materials, must be taken in the same direction as that in which the trains run on a double line, and must be followed at a distance of not less than half a mile by a man with Danger hand-signals and detonators. In the case of a single line, where trains run in both directions, the lorry or truck must be protected in both directions.

Protection of lorry or truck on line.

On no occasion must a lorry be run in the wrong direction on a double line.

283. No lorry, used for the conveyance of material, or trolly for the conveyance of men, may, in any case, be placed on the line, except by the authorized person who is responsible for its proper protection and use according to the rules in force on the Railway.

Responsibility for lorries.

284. No lorry or trolly shall, under any circumstances, be attached to a train, and all lorries and trollies, when not in use, must be taken off the rails, placed well clear of the line, and the wheels secured with chain and padlock.

Security of lorry.

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Main line to be clear.

285. No Ballast train, wagon, truck, lorry, or other impediment shall be allowed to be on any part of the main line within ten minutes of a train being due, except on lines worked on the block system when the time must not be less than five minutes; and excepting in cases of accident, or absolute necessity, all repairs must be effected, and the line made clear and safe for the passage of trains not less than ten, or five minutes, as the case may be, before a train is due. See Rule 317.

Ballast train.

286. All persons in charge of Ballast trains must obey the orders of Station Masters, so far as relates to the time of their running on the line, and no Driver of a ballast train must leave a siding without the necessary permission.

Guards.

287. Guards of Ballast trains are responsible for carrying out Rules 179 and 180, and all other regulations prescribed for Guards for the protection of trains.

Ballast trains not to work during fog.

288. Ballast trains must not work between stations in a fog, except when authorized under special circumstances, and no Ballast train, wagon, truck, or lorry must be run if it can be avoided, except during daylight, and when the weather is sufficiently clear for a signal to be distinctly seen at a distance of half a mile. But when necessary to run a Ballast train at night, or during a fog, it must be protected by the prescribed lights. See Rule 313.

Accident or failure of works.

289. Any accident to a train or engine, or failure of any part of the works affecting the safety of the line, must be reported as soon as possible to the nearest Inspector of permanent way and to the Station Master of both sides of the point at which the accident or failure has occurred.

Road to be inspected. Same as Rule 26.

290. Every portion of the permanent way must to inspected daily on foot. by some authorized person responsible for its condition; and bridges and all other works (including signals and signal wires) must be regularly inspected in accordance with rules laid down by the authorized officer.

Defect of wires, &c.

291. Each Foreman, Ganger, or Mistry must report to the Inspector of permanent way when any telegraph post appears to be in an unsafe state, or any of the signal or telegraph wires are broken, slack, entangled, or touching each other or any building. He must also see that all grass, creepers, boughs or trees, and rubbish are removed from the wires.

Where the maintenance of the telegraph posts and wires is under the control of the Government Telegraph Department, the removal of grass, creepers, boughs of trees, and rubbish will be carried out by the Government Telegraph Officers, and all reports of defects in post and wires should be made to the officers of the Department by the Inspector.

Lifting permanent way.

292. In lifting the permanent way, no lift must be greater than three inches at once, and then it must be effected in such a manner as not to occasion any sudden change of gradient Both rails must be raised equally and at the same time, and if possible the ascent must be made in the direction in which the trains run.

Ballast thrown up.

293. No Ballast shall be thrown up to a higher level between the rails than three inches on the 5 feet 6 inch gauge, and not higher than rail level on the metre or other narrow gauge, and it must be thrown as much as possible on the outside of each line, or between the two roads. The rails must be kept clear of gravel, ballast, or any other material

Wagons in sidings.

294. No vehicle shall be left in any siding outside station limits without the wheels being properly secured, clear of all running lines.

Blasting.

295. No blasting shall be allowed on or near to the Railway without the authority of the Engineer in charge.

Gates to be closed.

296. Gangers must close and fasten all gates they find open, and report the circumstances.

Works in floods.

297. Each Foreman, Ganger, or Mistry must, in the event of flood, carefully examine the action of the water through the culverts and bridges on his length of line; and should he see any cause to apprehend danger to the works, he must immediately exhibit the proper signals for the trains to proceed cautiously, or to stop, as necessity may require, and inform the Inspector thereof; and until the Inspector arrives, he must take precautionary measures for securing the safety and stability of the line.

Fire.

298. In the event of any fire upon or near the line, the men employed on the line must take immediate measures for putting it out.

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Cleaning of points and signals.

299. Gangers must keep clean the working parts of points and signals, unless the duty is otherwise specially provided for.

Line to be kept clear.

300. Each Foreman or Ganger must keep his portion of the line clear and safe, and the fences in repair; and if any sheep, cattle, or other animals be on the line or within the fences, he must immediately remove them, and report the circumstance to the Inspector of permanent way.

Defects.

301. Foremen or Gangers must see that all broken chairs, rails, sleepers, or other defective materials are removed from the road with the least possible delay, and sound materials substituted.

Materials clear of rails.

All tools, rails, sleepers, pieces of iron or wood, or other implements or materials, must be carefully placed so as to be quite clear of the line, and not within three feet of the rails.

Custody of materials.

302. Each Inspector of permanent way will be held responsible for the security of all rails, chairs, sleepers, and other permanent way materials in his district. They must be kept clear of both lines and properly stacked.

Custody of tools.

303. Each Foreman or Ganger is responsible on his own length of line for the security of tools and implements supplied to him.

Platelayers to stand clear.

304. When a train is approaching, Platelayers and labourers must stop work and stand clear of all the lines.

Materials found upon line.

305. Each Foreman or Ganger will be responsible for collecting any coupling chains hooks, pins, iron, or other materials which may be found on the line, and for having them conveyed to the nearest station.

Articles found on line.

306. All luggage, goods, or articles found on the line, must be taken to the nearest station, and a report made containing the best information that can be obtained respecting the train from which they may have fallen.

Trespassers.

307. Gangers and others employed on the line must order off the Railway all trespassers, who, if they persist in remaining, may be immediately removed from the Railway by any Railway servant or by any other person.

## SECTION XI.

### Regulations for Ballasting.

Ballast train rules.

308. Ballast trains must, except where specially exempted, be worked under the same rules and regulations as other trains.

Guards.

309. Guards and Brakesmen of Ballast trains shall be experienced men selected from the Train Guards.

To accompany train.

310. A Guard or Brakesman must accompany each Ballast train.

P. W. men to assist in working signals.

311. The Guard or Brakesman of a Ballast train has authority to require those employed in repairing the permanentway and works to assist him in working signals.

Ballasting.

312. No ballasting is to be carried on except with the permission of the Engineer in charge of the section of the Railway.

Ballast engines not to work at night.

313. Ballast trains are prohibited from passing along the main line at night, or in a fog, or during a heavy rain, except when authorized to do so under special circumstances, and then must not move faster than fifteen miles an hour. But when necessary to run a Ballast train at night or during a fog, it must be protected by the prescribed lights. See Rules 288.

Ballast train to keep clear of traffic trains.

314. The Guard of a Ballast train is held responsible for keeping clear of all other trains. When a Ballast train has to work on the line between two stations the Guard must, when practicable, arrange with both Station Masters where and when the next train is to be passed.

Train working between stations.

Same as rules 130, 201

315. [illegible]ase a train may have to stop between stations to take up or put down material, the permission of the Station Master of the last station, before the stoppage has to be made, must be obtained before the train leaves such station. The Station Master must take care to give all necessary instructions.

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316. The Guard must, before leaving a station, receive a line clear message with the necessary instructions endorsed upon it, or the usual authority for leaving a station in accordance with the system in force for working the traffic.

Authority to leave station.

317. No Ballast train, wagon, truck, lorry, or other impediment, shall be allowed to be on any part of the main line within ten minutes of a train being due, except on lines worked on the block system, when the time must be not less than five minutes. See Rule 285.

Main line to be clear.

318. When a Ballast train is intended to run through from one station to another, without working between them, it must be treated as an ordinary or special train.

Ballast train running through.

319. When Ballast wagons are left on a siding outside station limits, the Guard must secure a wheel of the wagon nearest to the point of the siding, and he is responsible that the vehicles are properly secured in accordance with rules prescribed by the authorized officer, and that the scotch blocks, where provided, are fastened.

Wagons to be secured.

320. Ballast trains, the working of which requires that they must stop outside station limits, may be protected by special regulations; but unless so specially provided for in each case, they must be protected as prescribed in Rule 179.

Working outside station limits.

321. Ballast trains may be run with a pushing engine on a written order, but in such cases the speed must not exceed fifteen miles an hour, or such lower speed as may be ordered.

Pushing train.

322. Guards in charge of Ballast trains must, before giving the starting signal, tell the coolies working with the train and riding in theopen trucks to sit down.

Coolies.

## SECTION XII.

### GATEMEN AT LEVEL-CROSSINGS.

323. All level-crossingsof which the gates close across the Railway, must be provided with red signal boards, and with lamps showing red, up and down the line, when the gates are closed across the line. The lamps must be kept lighted from sunset to sunrise and during foggy weather.

Gate signals.

324. Every Gateman must be provided with day and night signals, which he must keep in proper order, reporting immediately any defect he may observe to his superior officer.

Gateman's equipment.

325. Unless specially ordered to the contrary, the gates at all thoroughfares must be kept open for the passage of trains, and securely closed across the thoroughfare, except when required to be opened for the road traffic, and must then as quickly as possible be closed again across the thoroughfare. Before opening the gates, the gateman must look up and down the line to assure himself that no train is approaching.

Gates open to Railway.

326. Where special authority is given, gates made to close across the Railway may be kept open to the public thoroughfare, except when an engine or train is due or expected, at which time such gates must be closed and fastened across the public thoroughfare; and until such engine or train has passed, the gates must be kept closed and no person or thing is to be allowed within them. While the gates are closed across the Railway and open to the thoroughfare, the "Danger" signal must be exhibited both up and down the line. In opening double gates closing across the Railway for an approaching train, where there is only one signal lamp to each gate, the half with the signal lamp attached is not to be moved until the other half is shut across the thoroughfare.

Gates open to road.

327. The gate towards which a road traffic is approaching must not be opened until the opposite gate has been opened, so as to allow it to cross over without stopping upon the line.

Further gate to be first opened.

328. Every gateman must take particular notice of each train, and if he should see any thing wrong, he must show a "Danger" signal to the Guard and Driver.

Trains to be observed.

329. In all cases the Gateman, when signalling, is to stand in a position clear of the rails where he can be seen by the approaching Driver.

Position of Gateman.

330. All Gateman must have a knowledge of hand signals.

Knowledge of signals.

331. If any gates or fastenings are out of order, the Gateman must immediately report to his superior officer, and to the nearest Platelayer, in order that the gates may be made safe.

Gates out of order.

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332. Gatemen are to prevent as much as possible any trespassing on the Railway, and every case of trespass must be immediately reported; and they are also to report any irregularity in the signals, or their working, or other infringement of the Railway Regulations.

Prevent trespassing.

333. Gatemen must keep themselves, and their clothes and huts, neat and clean; they must also take care that the channel for the flange of the wheels is always clear before passage of each train; that the rails and way are clear, and that rubbish is not allowed to accumulate near the hut and crossings.

Huts, &c., to be clean.

334. In the event of the road being from any cause obstructed, the Gateman must do everything in his power by warning approaching trains to prevent accident.

Obstructions.

335. At level-crossings where fixed signals are provided, the Gateman must satisfy himself of the proper working of his signals both by day and by night, and must report immediately any defect to the Inspector of permanent way, or other person in charge of the repair of signals; and also to the Station Master, or other person, under whose supervision he acts.

Fixed signals to be tested.

336. At level-crossings where the block system is not in operation, and where there are fixed signals, the "Danger" signal must be exhibited for at least five minutes after the passing of any train, after which, if the gates are open for the passage of trains, a "Caution" signal must be exhibited for a further period of five minutes.

Fixed signals at crossings.

## SECTION XIII.

### General Rules for working a line on the system termed "Line Clear and Caution Message" in Rule 3, Section II.

337. The working of trains on the "Line clear and Caution message" system, does not in any way dispense with the use of station, distant or other signals, whenever and wherever such signals may be requisite.

Signals not dispensed with.

338. On a single line no engine with or without a train shall be permitted to leave one station for another, until it shall have been ascertained by means of the electric telegraph that the line between those stations is clear of engines and trains coming in the opposite direction and of all impediments as far as can be known.

Trains may follow one another between stations in the same direction, on both single and double lines, under the following rules; and in accordance with Rule 339.

(*a*) No train or engine shall be allowed to follow any other train or engine on the same line of rails within ten minutes, unless "Line clear" has been received.

(*b*) No passenger train shall follow a goods train, nor shall a fast goods train follow a stopping passenger train from a station within fifteen minutes; and in case the distance to the next station in advance exceeds ten miles, the interval must be increased under special instructions of the authorized officer.

339. When one train follows another at an interval exceeding the limits laid down in Rule 338, it must run under the authority of a "Caution message" obtained in the manner prescribed in the rules in force on each Railway.

Caution message.

340. No one except the Station Master or other duly authorized person is to give or seek a line clear or caution message.

Authority to given line clear.

341. A Station Master must not apply for a line clear message from the station in advance, until he has received advice that the approaching train has left the station in rear.

Time for seeking line clear.

342. No engine or train shall be moved from any station until the Driver has in his possession a "Line clear," "caution message," or other permission written on the authorized form showing that he can proceed to the next station. The Driver is to receive this written permission from no other person than the Guard of his own train, and must also receive from him the usual starting signal before moving.

Driver to obtain written permission.

343. The Station Master is to hand the written permission to the Guard, who must satisfy himself that it is properly filled up and dated, with the time added, and is signed in full and in ink, and that it applies to the particular train or engine for which it is given and received before handing it to the Driver. The Driver must also satisfy himself on these points before starting.

Station Master to hand message to Guard.

This written permission is never to be given to the Driver until the train is to start; and when written to pass another train, it must not be given to the Driver until the whole of such other train has come in and is clear of the points.

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Forms and books.

344. No forms other than those specially provided from time to time for the purpose are to be used in working under this system. And each station must keep the regular books provided for by the working orders in force.

Message cancelled.

345. The leaves of these books are to be progressively numbered in type, and when any message has from any cause to be cancelled, the form to which it applies must also be marked as cancelled both on the form and counterfoil, and must be carefully preserved by doubling it on the counterfoil.

Message to be numbered.

346. In addition to the progressive printed number, every message from each station must be numbered to stations on each side from midnight to midnight, commencing with number one to each station, and this number is to be treated as a portion of the message and entered on the counterfoil.

Number to be quoted.

347. When a message is in reply to another, each station's number must be quoted at the beginning of the message.

Number to be quoted.

348. When the message bears reference to a former message in the same direction, the number of that message must also be quoted at the beginning.

Train to be described.

349. In train messages the engine or train must be distinctly described, as, for instance "No. 2 Down ballast," "No 4 Up goods," and so on; and for every train a separate enquiry and reply must be sent, but an enquiry and reply message must never be sent on one form.

Line clear enquiries.

350. In line clear enquiries, the time of arrival of the last train in the opposite direction must always be given. If the train follows another on a caution message, the time of departure of the preceding train must be endorsed on the message.

Cancellation of line clear.

351. After a line clear message has been given and has been subsequently cancelled, no train is to be started in the opposite direction on a single line, until a telegram has been received stating that the train, for which the line clear had been first given, is and will be detained, and that the message has been cancelled.

Message to be wholly written before despatch.

352. No part of any message affecting the passage of trains must be forwarded or acted upon until the whole is written out, except when an accident may be prevented, or in other case of emergency.

Messages to be signed.

353. Line clear or caution permissions are not to be written out in full or in part, or signed, before they are required.

Form of message.

354. All messages connected with train working, including line clear authorities, are to be written in ink or other indelible substance, and are also to be signed in full by the Station Master or other authorized person.

Messages to be filed.

355. Line clear and enquiry messages must be retained for at least a fortnight.

Telegraph interrupted.

356. In case of failure or interruption of telegraph communication, trains must be worked between stations in accordance with prescribed rules.

## SECTION XIV.

### Rules for Working on the System termed "Train Following" in Rule 3, Section II.

Applicable to double line.

357. This system is applicable only to double line working.

Applicable to double line.

358. Trains may follow one another in accordance with the following rules.

Interval between trains.

359. No train or engine shall be allowed to follow another train or engine, on the same line of rails, within ten minutes unless it has been ascertained by telegraph that the preceding train has arrived at the next station in advance.

Fast train following.

360. No passenger train shall follow a goods train, nor shall a fast goods train follow a stopping passenger train, from a station within fifteen minutes, nor even then until the Driver has been warned in accordance with Rule 362. And in case the distance to the next station in advance exceeds ten miles the interval must be increased under special orders.

Train to be stopped.

361. Should a train arrive at a station within the limits of time in Rules 359 and 360, it must be stopped until the prescribed interval has elapsed.

Caution to following train.

362. When one train follows another before the first has reached the next station, the Station Master must caution the Guard and Driver of the second train, giving them the time of departure of the preceding train. The order to proceed must be given in writing, and an acknowledgment in writing must be obtained from the Driver, the train being stopped out of course if not booked to stop.

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## SECTION XV.

GENERAL REGULATIONS FOR WORKING ON THE SYSTEM TERMED "ABSOLUTE BLOCK" IN RULE 3, SECTION II.

Object.

363. The object of the system of Electric Train-signalling is to prevent more than one train or engine being between any two Signal Stations on the same line at the same time. This is accomplished by not allowing any train or engine to leave a Signal Station till the previous train or engine has been signalled clear.

Out-door Signals.

364. The Block System of train working by Electric Train-signalling, does not in any way dispense with the use of out-door and hand signals, whenever and wherever such signals may be requisite.

Instruments.

365. The Special Electric train Instruments, if provided, are exclusively for the signalling of trains, and must not, under any circumstances, be used for conversing, nor for any purpose other than block working in strict accordance with prescribed rules, and they must only be used by the person appointed for the duty.

Absolute Block working.

366. On those portions of any Railway, which are worked on the Absolute Block System a train or engine must not be allowed to enter any section until it has been ascertained by telegraph that the section is clear of trains or engines.

Except when otherwise specified, a section is to be understood to be the line between two sections outside station limits.

Both lines fouled.

367. Should there be reason to suppose that from accident or otherwise either or both lines are obstructed, care must be taken to advise other stations concerned so as to prevent trains from entering the section.

Telegraph interrupted.

368. In the event of any failure of the instruments so that the necessary signals cannot be forwarded and received, trains must be worked under Rule 338, and if telegraph communication is entirely interrupted, trains must be worked between stations in accordance with the prescribed rules.

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## SECTION XVI.

REGULATIONS FOR WORKING SINGLE LINES OF RAILWAY ON THE SYSTEM TERMED "TRAIN STAFF AND TICKET" IN RULE 3, SECTION II.

Signals.

369. The Train staff and Ticket System of train working does not in any way dispense with the use of out-door and hand signals whenever and wherever such signals may be requisite.

Staff station.

370. The Working Time-tables will contain the necessary information from time to time as to the places which are appointed staff stations.

Staff or Ticket.

371. A Train Staff or Train Staff Ticket must be carried with each train or engine, and without this staff or ticket, no train or engine must be allowed to leave any station.

Staff at Stations.

372. No train or engine shall be permitted to leave any staff station unless the staff for that portion of the line, over which it is to travel, is then at the station.

Custody of staff.

373. The person in charge of the station for the time being, is the only person authorized to receive and deliver the staff or ticket, and all tickets must be cancelled directly they are handed to him after use.

Staff given to Driver.

374. When a train or engine is ready to start from a station, and no second train or engine is intended to follow before the staff will be required for a train in the opposite direction, it is the duty of the person in charge of the station to give the staff to the Driver, who shall then place it in a conspicuous place provided for that purpose on the engine.

Tickets to Driver.

375. If other trains or engines are intended to follow in succession before the staff can be returned, a Ticket indicating that the staff is following must be given by the person in charge of the station to the Driver of the first train or engine, the staff for the section being shown to him, and so on with any other train or engine, except the last, the staff itself being given to the Driver of the last train or engine, as directed in Rule 374. After the staff has been sent away, no other train or engine must, under any circumstances, leave the station to follow in the same direction, until the staff for that station has been returned.

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376. No Driver with a train or engine shall leave a station until he has received the proper staff or ticket for that section of the line over which he is about to travel, and he must not take the staff or ticket from any other than the person in charge of the station for the time being. After receiving the staff or ticket, he must not start until the proper signals have been exhibited, nor, when with a train, until a signal has also been given by the Guard. But he must not accept a Ticket in any case unless he sees the staff at the same time in the possession of the person who gives him such ticket. On arriving at the station to which the staff or ticket extends, such staff or ticket must immediately be given up to the person in charge of the station, and all tickets so given up must be immediately cancelled.

Driver to have staff or ticket.

377. Each staff must have shown upon it the name of the staff station at each end of the portion of line to which it applies. The staff, boxes, and tickets for the different portions of the line, must be distinguished by different colours.

Distinguishing mark.

378. The tickets must be kept in the proper ticket-box, fastened by an inside spring, the key to open the box being the staff to which the tickets apply.

Tickets.

379. The Station Master must keep a record in a book of each ticket issued, showing the number of tickets and the particular train or engine for which it is issued.

Record of tickets issued.

380. The staff, when at the station, must not be left in the box, but must be in the safe custody of the Station Master.

Staff at station.

381. Drivers must not take the staff or ticket beyond the station at which it ought to be left.

Staff or ticket to be left.

382. When trains are assisted by a second engine in the front, the leading engine must carry the staff or ticket; but when the assisting engine is pushing the train, the train engine must carry a ticket, and the assisting engine the staff, except in cases where the train and assisting engine are travelling over the entire length of line to which the staff applies, and have to be followed by another train or engine, when the train and assisting engine must each have a ticket. When the assisting engine is intended to return to the station from which it started, without running through the entire portion of line to which the staff applies, it must always carry the staff.

Assisting engine.

383. In the event of an engine which carries the staff breaking down between two stations the Fireman must take the staff to the staff station in the direction whence assistance can be obtained, in order that the staff may be at the station on arrival of the engine. Should the engine that failed be in possession of a ticket instead of the staff, assistance must only come from station at which the staff has been left. But if assistance can be more readily obtained at a station other than that where the staff is, immediate steps must be taken to have the staff transferred to the other end of the section. The Fireman must accompany the assisting engine to the place where he has left his own engine.

Engine carrying staff disabled.

Engine carrying ticket disabled.

384. When a Ballast train has to work between stations, the staff must be given to the Driver in charge of it. This will close the line whilst the Ballast train is at work. The Ballast train must proceed afterwards to one of the staff stations to open the line, before the ordinary traffic can be resumed.

Ballast train at work on the line.

Ballast trains not stopping to work between stations, may run with staff or ticket as ordinary or special trains.

*Sample form of Train Staff Ticket.*

*Ticket No.*————

————————————RAILWAY.

TRAIN STAFF TICKET.

DOWN.

*Ticket No.*————

————*h.*————*m. from*————*to*————

*To Driver and Guard.*

*You are authorized to proceed from*————*To*————

*And the Train Staff will follow.*

*Train No.*————*in front left*————*h.*————*m.*

*Signed*————

*Officer in charge at*

*Date*

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(*Back of Ticket.*)

When this ticket is given to the Driver, he must, before starting, see the Train Staff for the portion of line which he is about to enter.

This ticket is to be given up by the Driver immediately on arrival to the person in charge of the station to which he is authorized to proceed, and such person will be responsible that his ticket is *at once cancelled.*

## SECTION XVII.

### Regulations for working single lines of Railway on the system termed "Train despatching" in Rule 3, Section II.

*This system is not to be extended to any Railway on which it is not now in force, and it is to be understood to be sanctioned only as an "ad interim" arrangement, until one of the systems described in Sections XIII to XVI can be brought into use on the Railway.*

Trains run to Time-table.

385. The working of all ordinary trains shall be regulated by Time-tables, and no departure from the regular running shall be made without the order of an authorized officer, and such order shall be conveyed in writing, or in an attested copy of a telegram.

Special train.

386. No special train, or Pilot engine, except in case of accident, shall leave a station or pass along the Railway, unless previous notice in writing shall have been given to each station, or notice shall have been sent by electric telegraph, and shall have been acknowledged at every station throughout the distance to which such engine or train is intended to proceed.

Assisting engine.

387. These rules will not prevent a Locomotive Foreman, or other servant acting in that capacity (should he be unable to communicate with the Traffic Officer in charge of the Division, or, if by so doing, unnecessary time would be lost) from sending, with the concurrence of the principal officer at the station, an engine to assist a disabled train provided that both have satisfied themselves that there is no danger in such act.

## SECTION XVIII.

### Regulations for working single line of Railway on the system termed "Pilot Guard" in Rule 3, Section II.

*This system is only to be held as applicable to short Branch Lines.*

Pilot Guard to start trains.

388. The Pilot Guard will be distinguished by a red dress or badge; and no train or engine shall, under any circumstances, be allowed to run on the line unless it is either accompanied, or personally started by the Pilot Guard wearing such dress or badge.

Pilot Guard, when practicable, to accompany every train.

389. The Pilot Guard will, when practicable, accompany every train; but when it is necessary to start two or more trains from one end of the portion of line under his control, before a train has to be started from the other end, the Pilot Guard must furnish the Guard in charge of each train not accompanied by himself with a printed Pilot Guard's ticket, where such are provided, properly filled up and signed, and personally start such train, and must himself accompany the last train. The ticket will apply only to the single journey to the station named on it, where it must be immediately given up to the person in charge of the station, and all tickets so given up must be immediately cancelled.

Driver to see Pilot Guard.

390. The Driver must not start his train without seeing the Pilot Guard. But if the Pilot Guard does not accompany the train, the Driver must not start, until he has received, from the Guard of his train, the Pilot Guard's ticket authorising him to proceed. A Driver working an engine, unaccompanied by a Guard, must observe the same regulations as herein laid down for a Guard with a train.

## SECTION XIX.

### Regulations for working single lines on the system termed "One Engine only" in Rule 3, Section II.

*This system is only to be held as applicable to short Branch Lines.*

One engine in steam.

391. Only one engine in steam, or two or more coupled together, which are then to be treated as one engine or train, must be allowed to be on the line at one and the same time, except as provided in Rule 392.

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Disabled engine.

392. In the case of an engine or train becoming disabled and requiring assistance, or an accident occurring which renders it impossible for the engine to proceed, the guard in charge must instruct the Driver to keep the engine stationary until his return, and then make the best of his way to the station whence assistance can be obtained, and inform the person in charge there of the circumstances, who will, on receipt of such information, allow a second engine to enter the line. The second engine must be accompanied by the Guard of the disabled engine or train, who must explain to the Driver where, and under what circumstances, the disabled engine or train is situated.

Guard of disabled train.

393. The Guard of the disabled engine or train will be held responsible for the safe and proper working of the line until both engines have left it, and it is again clear.

Absence of Guard.

394. Should an engine without a Guard become disabled, the Fireman, or, if necessary the Driver, must perform the duties prescribed for the Guard.

(*Government of India No.* 299, *dated* 13*th September* 1880, *Gazette of India of* 18*th idem*).

See also No. 25, dated 3rd February 1886, *Gazette of India* of 6th idem, Part, I, p. 75, and No. 138, dated 25th May 1886, *Gazette of India* of 29th idem, Part I, p. 354.

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## (*b*).—RULES FOR ENQUIRING INTO, AND REPORTING ON SERIOUS ACCIDENTS ON INDIAN RAILWAYS.

### GENERAL.

THE following Rules are prescribed by the Governor-General in Council for enquiring into, and reporting on, serious accidents on Railways, whether open for public traffic or under construction :—

1. Serious accidents are accidents attended with loss of human life, or serious injury to person or property ; or accidents of a description usually attended with such loss or injury.

2. In the case of any railway passing through Native States, the Government of India will from time to time direct what official shall, for the purposes of these Rules, be regarded as the Magistrate of the District, in respect of the portions of the railway situate in each such State.

3. Throughout these Rules, the words "District Superintendent of Police" of the District in which the occurrence takes place, shall be substituted for the words "Railway Police Superintendent," in respect of Railways whereon a Railway Police Superintendentship has not been established.

The word "Manager" shall include the Agent of a Guaranteed or other Railway Company or other officer in charge, and the Chairman of the Corporation in the case of the Calcutta Municipal Railway, and the Vice-Chairman of the Calcutta Port Commissioners in the case of railways belonging to that body, and also the Chief Engineer or Engineer-in-Chief, or other officer in charge of any railway.

The officer authorized by Government to investigate and report on accidents, is called the "Government Inspector" ; and his address and official designation will be notified to Managers from time to time by Local Governments or Administrations, or by the Government of India.

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### SECTION I.

*Duties of Managers and Railway Officers.*

4. On the occurrence of any serious railway accident, it shall be the duty of the nearest Station Master, or, where there is no Station Master, the officer in charge of the section of the railway on which the accident occurs, to give immediate notice thereof in writing, or by telegraph when possible,—

*In the case of railways belonging to the Calcutta Municipal Corporation or to the Calcutta Port Commissioners, the officer referred to in this Rule as* "the officer in charge of the section of the railway" *will be the Engineer in immediate charge of the line.*

(*a*) to the nearest Magistrate in the district in which the accident occured ;
(*b*) to the Railway Police Superintendent ;
(*c*) to the officer in charge of the Police Station in the jurisdiction of which the accident occurred ;
(*d*) and to the senior Policeman present at his Station.

5. It shall be the duty of the Manager to give notice of the accident

(*a*) without delay to the Government Inspector who has been authorized by Government to investigate and report on such accidents ;

(*b*) to the Secretary to the Local Government in the Judicia epartment within forty-eight hours after the occurrence, in order that the Local Government may, if necessary, watch over the investigation.

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6. The Manager shall in cases of serious personal injury afford medical aid to the sufferers, and see that they are properly and carefully attended to, till removed to their homes, or handed over to the care of their relatives or friends.

7. The Manager shall cause departmental enquiry to be held promptly for the thorough investigation of the causes of every serious accident, and shall, if he considers it expedient, invite the Superintendent of Railway Police to be present at the enquiry if possible: in his unavoidable absence an officer of Police should be present. Also he shall communicate the conclusion at which he has arrived as the result of the enquiries to the Magistrate mentioned in Rule 4, and if on an open line, to the Government Inspector, with a statement of the persons, if any, whom the Railway authorities intend to prosecute, unless the matter should form the subject of a magisterial enquiry under Rule 8.

8. It shall be the duty of the Manager, or of the officer or officers to whom the duty is delegated by him, to bring to justice, wherever sufficient evidence is forthcoming, all Railway subordinates guilty of crime or of breaches of the Indian Railway Act, or of the General Rules, calculated to cause serious accident: and to request the Superintendent of Railway Police to make a report of all cases in which there appears to be ground for suspecting Railway subordinates of such misconduct. Also, he shall request the Superintendent of Railway Police to prosecute all persons whom it may be decided should be prosecuted.

9. The Manager, and all heads of Departments, shall facilitate the movements of the Medical Officers, the Police, the Magistrate, the Government Inspector, and others concerned in reaching promptly the scene of the accident. And they shall assist these authorities in conducting enquiries either personally, or by deputing some responsible and intelligent officer or officers, as their representatives, to aid in obtaining evidence, and securing the attendance of the Railway subordinates.

10. In cases in which it is the duty of the Railway Officers to arrest any offender under Sections 48 and 49 of Act IV of 1879, the Manager or officer or officers nominated by him as responsible in the locality, shall instruct the Railway Police Superintendent or the senior Police Officer or Policeman present, or in the event of there being no member of the Police Force present, a Railway servant, to at once arrest the offender, or when such offender is himself a Railway Officer whose removal would cause danger or grave inconvenience, that precautions are taken to prevent his escape pending the arrival of a substitute.

11. He or they shall arrange for the attendance as long as needful at the Court or place of enquiry of any officer or servant of the Railway, upon the requisition of the Magistrate or other Civil Officer.

12. The Manager shall maintain at each Railway Station, or in the case of lines under construction, in each divisional office, a list of Magistrates or other officers (such list to be furnished by the Magistrate having jurisdiction over the place where the station is situate), to whom reports of accidents should be made; and he shall furnish Magistrates with a list of Railway Officers to whom any summons may be sent for service on subordinate Railway servants.

13. In the case of judicial enquiries, he shall report the result to the Government Inspector, and forward a copy of the decision of the Court.

14. He shall issue such detailed instructions as will give effect to the foregoing rules and furnish the Government Inspector with a copy of all such detailed instructions as issued.

## SECTION II.

### *Duties of the Railway and District Police.*

15. An investigation may be made by the Railway Police in the case of any railway accident.

16. Where there is no Railway Police, the duties imposed by these Rules on Railway Police or the Railway Police Superintendent, must be discharged by the District Police, or the District Police Superintendent, in addition to their duties as such.

17. In the case of serious accidents, the Railway Police Superintendent, if any, or the District Superintendent of Police shall at once advise the Local Administration, and proceed without delay to the scene of the accident. If either officer be himself unable so to proceed, he shall depute a subordinate, who, in the case of the District Police, shall be an Assistant Superintendent of Police where there is one, or where there is no such officer, an Inspector. The officer unable to proceed shall also at once inform his departmental superior and the nearest Magistrate in the District.

18. Such accident shall forthwith be investigated by the Railway Police, and if the Police Officer is of opinion that sufficient grounds exist for a judicial investigation, he will bind all parties to appear before a Magistrate on a date to be fixed by that officer. If the investigation be made by the Railway Police, immediate information shall be given to the District Police, either direct or through the Magistrate of the District.

The result of the Police investigation prescribed by this rule, shall be reported to the Manager of the Railway and to the Magistrate of the District.

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19. When the investigation is made by the Railway Police, and the assistance of the officers of the District Police is called for, the latter shall afford all necessary assistance and shall, if occasion arise, carry the investigation beyond the limits of the Railway premises. But the Railway Police Superintendent is primarily entrusted with the duty of investigation within such limits.

Subject to any provisions elsewhere contained in these Rules, the further prosecution of the case on the conclusion of the preliminary local Police investigation shall rest with the Railway Police.

SECTION III.

*Duties of Civil Officers.*

20. It shall be in the discretion of the Magistrate of the District or of the Sub-divisional Magistrate, on receiving information of the occurrence of a serious Railway accident within the meaning of Rule 1, either—

(*a*) himself to proceed to the scene of such accident and make any enquiry ;

(*b*) to depute a subordinate Magistrate to make enquiry ; or

(*c*) to direct investigation to be made by the Government Railway or District Police as the case may be ;

(*d*) to report to the Local Government serious accidents involving considerable loss of human life or indicating defective administration.

21. The Magistrate or other Officer shall summon any servant of the railway, and all other persons whose presence he may think necessary, and, after taking the evidence and completing the enquiry, shall, if he consider there are sufficient grounds for judicial investigation, take the requisite steps to bring to trial any person he may consider criminally liable for the accident.

22. The Manager or the Magistrate of the District, or the District Superintendent of Police, may require the Civil Surgeon of the District or any District Medical Officer to proceed to the scene of any Railway accident, attended with personal injury, for the purpose of rendering medical aid and of making, before the investigating authorities, any professional statements that may be required ; and it shall be the duty of such Civil or Police Surgeon or Medical Officer to proceed accordingly.

23. In cases where technical points are involved, the Magistrate or other Officer should be careful to call for and take the opinion of professional persons.

24. The result of this preliminary local inquiry will invariably be communicated by the Magistrate to the Manager of the Railway and to the Government Inspector.

25. Should the Magistrate have delayed judicial action until receipt of the Railway departmental report, he will then decide whether to discharge the persons accused or to proceed with the case.

26. If the Manager of the Railway do not prosecute the persons considered liable by the Civil Officer, the Magistrate will arrange for their prosecution.

27. If, in the course of the judicial enquiry, the Magistrate wishes for the assistance of the Government Inspector or Manager of the Railway, or for the attendance of any officer of the Railway, to explain or give evidence upon any matter relating to railway supervision, management, or working, he will issue a requisition to such officers to attend the Court.

28. On the conclusion of the judicial enquiry, the Magistrate will, if necessary, report the result for the information of the Local Government ; and he will send a copy of his decision to the Manager of the Railway.

29. Magistrates, through whose jurisdiction a Railway passes, shall maintain a list of Railway Officers (such list to be furnished by the Manager), to whom summons may be sent for service on subordinate Railway servants, and shall furnish the Manager with a list of Magistrates or other Officers to whom reports of accidents should be made.

SECTION IV.

*Government Inspector's Duties.*

30. On receiving notice of a serious accident to a train arising from defects of road or works, or machinery, or from obstructions, or in any case on requisition from the officer charged with the enquiry, the Government Inspector shall proceed himself, or by deputy, to the scene of the accident, shall note the facts, watch the proceedings of the departmental or magisterial enquiry, and make such enquiries and investigations as he may think fit, calling upon the Manager or Officer in charge of the line for any assistance needed, and shall form his own conclusions.

31. He shall submit his report, with any notes he may desire to record, to the Government concerned, forwarding a copy to the Manager of the Railway or to the Magistrate having jurisdiction in British or in Native Territory, as the case may be.

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32. He shall assist the Magistrate so far as he can in person, or by deputy, in the judicial enquiry whenever called upon to do so.

33. In important cases, where a remedy or change of system appears necessary, the Government or Administration concerned should be informed what steps have been, or are proposed to be, taken by the Railway to prevent a recurrence of similar accidents, and whether in his opinion further action in the matter is desirable.

*(Government of India Circular No. III of 7th January* 1881, *Punjab Government Notification No.* 134 *dated* 10*th January* 1881, *Punjab Gazette of* 13*th idem).*

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(c). Whereas the rulers of the States mentioned in the second column of the Schedule hereto annexed, have ceded to the British Government full jurisdiction within those portions of land which lie within their respective jurisdictions and are occupied by the Railway mentioned opposite their names, respectively, in the first column of the said Schedule (including land occupied as stations, outhouses, and for other purposes of the said Railways);—In exercise of such jurisdiction and of the powers conferred by Sections 4 and 5 of Act XXI of 1879 (The Foreign Jurisdiction and Extradition Act, 1879), the Governor-General in Council is pleased to declare as follows:—

(1) Act No. IV of 1879 (The Indian Railway Act, 1879), and Act No. IX of 1872 (The Indian Contract Act, 1872) are extended to the aforesaid portions of land, subject, in the case of the former Act, to the following modifications—namely, in the second and third paragraphs of section one, and in section fifty the words "a Presidency Magistrate and" shall be omitted.

(2) In exercise of the power conferred by Section 4 of the said Indian Railway Act, 1879, the Governor-General in Council is pleased to sanction the use of locomotive engines, or other motive-power and carriages and wagons to be drawn or propelled thereby, on the aforesaid portions of land.

(3) In exercise of the power conferred by Section 53 of the said Indian Railway Act, 1879, the Governor-General in Council is pleased to declare that the Governments and Authorities mentioned in the third column of the said Schedule shall be deemed to be, for the purposes of the said Act, the Local Governments in respect to such parts of the Railways mentioned opposite thier names respectively, in the first column of the said Schedule, as are situate within the territories of the States mentioned opposite their names respectively in the second column of the said Schedule.

*SCHEDULE.*

| Railway. | State. | Government or authority. |
|---|---|---|
| Great Indian Peninsula ... | Kurundwad ... ... | Bombay. |
| Ditto | Akulkote ... ... | Ditto. |
| Bombay, Baroda and Central India. | Baroda ... ... | Ditto. |
| Ditto ... | Sucheen ... ... | Ditto. |
| Ditto ... | Wadhwan ... ... | Ditto. |
| Ditto ... | Luktur ... ... | Ditto. |
| Ditto ... | Bajana ... ... | Ditto. |
| Ditto ... | Patri ... ... | Ditto. |
| East Indian Jubbulpore Branch. | Rewah ... | North of Sutna station,—the Government of the North-Western Provinces and Oudh. |
| Ditto .. | Punna ... | |
| Ditto ... | Beronda ... | |
| Ditto ... | Nagode .. | South of Sutna station,—the Chief Commissioner of the Central Provinces. |
| Ditto ... | Sohawul ... | |
| Ditto ... | Myhere ... | |
| Ditto ... | Kotee ... | |
| Sind, Punjab and Delhi ... | Patiala ... ... | Punjab. |
| Ditto ... | Nabha ... ... | Ditto. |
| Ditto ... | Kapurthala ... ... | Ditto. |
| Indus Valley State ... | Bhawalpur ... ... | Ditto. |
| Rajputana State ... | Jeypur ... ... | Agent, Govr.-Genl. for Rajputana. |
| Ditto ... | Kishengarh ... ... | Ditto. |
| Ditto ... | Bhurtpore ... ... | Ditto. |
| Ditto ... | Ulwur ... ... | Ditto. |
| Ditto ... | Nabha ... ... | Punjab. |
| Ditto ... | Patowdie ... ... | Ditto. |
| Sindia State ... | Gwalior ... ... | Agent, Govr.-Genl. for Central India. |
| Ditto ... | Dholepore ... ... | Agent, Govr.-Genl. for Rajputana. |
| Western Rajputana State ... | Jodhpore ... ... | Ditto. |

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*SCHEDULE*—(concluded).

| Railway. | State. | Government or authority. |
|---|---|---|
| Western Rajputana State ... | Serohi ... ... | Agent, Govr-Genl. for Rajputana |
| Ditto ... | Baroda ... ... | Bombay. |
| Ditto ... | Pahlunpore ... ... | Ditto. |
| Holkar State ... | Indore ... ... | Chief Commissioner, Central Provinces, south of Nerbudda river. Agent, Governor-General for Central India, north of that river. |
| Ditto ... | Gwalior ... ... | Agent, Governor-General for Central India. |
| Ditto | Dewas ... ... | Ditto. |
| Sindia-Neemuch State ... | Oodeypore (Meywar). | Agent, Govr.-Genl. for Rajputana. |
| Ditto ... | Gwalior ... ... | Agent, Govr.-Genl. for Central India. |
| Ditto ... | Indore ... ... | Ditto. |
| Ditto ... | Dhar ... ... | Ditto. |
| Ditto ... | Rutlam ... ... | Ditto. |
| Ditto ... | Jowra ... ... | Ditto. |
| Ditto ... | Sillana ... ... | Ditto. |

(*Government of India No* 91 *I. J, dated* 24*th June* 1880, *Gazette of India of* 26*th idem*).

(*d*).—In exercise of the powers conferred by the Foreign Jurisdiction and Extradition Act, 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to extend the following enactments to that part of the Sindh-Pishin section of the North-Western Railway which lies within the territories of the Khan of Kelât namely :—

(1) The Indian Railway Act, 1879—

subject to the following modifications, namely :—

(*a*) *Sections* 3, 5, 5*C*, 5*D*, 5*E* and 5*F*.—The word "public" shall be omitted wherever it occurs before the word "conveyance":

(*b*) *Section* 5*B*, *sub-section* (1).—For the last twenty words the following shall be substituted, namely :—

"on the condition of the rolling-stock and way and works thereof, and their suitability for use for the conveyance of passengers":

(*c*) *Section* 5*B*, *sub-section* (2).—For the last sixteen words the following shall be substituted, namely :—

"the same is in a fit state for the conveyance of passengers."

(*d*) *Section* 5*C*.—The word "so," where it first occurs, shall be omitted, and for the words "as to cause danger to, or affect the safety of, passengers carried thereon" the following shall be substituted, namely :—

"in such manner as regards its rolling-stock or way or works as to affect the degree of safety under which the railway was originally opened for the conveyance of passengers":

(*e*) *Section* 5 *E*.—For the words "the use of the railway or portion or of any specified rolling-stock will be attended with danger to the public using it" the following shall be substituted, namely :—

"the railway or portion or any specified rolling-stock is not in a fit state for the conveyance of passengers":

(*f*) *Section* 10.—The following paragraph shall be added to this section namely :—

"Special contracts limiting liability under this section may continue to be made notwithstanding any notification issued by the Governor-General in Council under Section 5 of the Sindh-Pishin Railway Act, 1887"; and

(*g*) *Section* 17.—The following words shall be prefixed to this section, namely :—

"Subject to the provisions of Section 4, sub-section (1), of the Sindh-Pishin Railway Act, 1887"

(2) The Sindh-Pishin Railway Act, 1887" Sections 4 and 5.

(*Government of India No.* 663*E*, *dated* 18*th March* 1887, *Gazette of India of* 19*th idem*).

See also Nos. 99, 100 dated 18th March 1887, *Gazette of India* of 19th idem, Part I, p. 162, 163, extending the Railway Act with the same modifications to that part of the Sindh-Peshin section of the North Western-Railway, which lies beyond the province of Sindh.

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(e). FROM THE SUPPLEMENT TO THE "GAZETTE OF INDIA," DATED 12TH JANUARY 1884

GOVERNMENT OF INDIA.

PUBLIC WORKS DEPARTMENT.

RAILWAY TRAFFIC.

SALE OF PLATFORM TICKETS AT RAILWAY STATIONS.

Circular No. XXXVII Railway, dated Simla, the 20th Decem ber 1883.

Read again--

Public Works Department letter to the Consulting Engineer for Guaranteed Railways, Lahore, No. 448 R. T., dated 26th April 1883, and enclosure.

Letter from the Consulting Engineer for Guaranteed Railways, Lahore, No. 1065 G., dated 2nd May 1883, and enclosure.

Public Works Department letter to the Consulting Engineer for Guaranteed Railways, Lahore, No. 558 R. T., dated 15th May 1883.

Letter from the Consulting Engineer for Guaranteed Railways, Lahore, No. 1233 G., dated 18th May 1883.

Public Works Department letter to the Consulting Engineer for Guaranteed Railways, Lahore, No. 920 R. T., dated 20th August 1883, and enclosure.

Public Works Department letter to the Consulting Engineer for Guaranteed Railways, Calcutta, No. 1157 R. T., dated 20th October 1883, and enclosure.

Read also—

Letter from the Consulting Engineer for Guaranteed Railways, Lahore, No. 2542 G., dated 22nd October 1883.

RESOLUTION.—The overcrowding of the platforms of important Railway stations at train times by persons who are non-travellers has frequently been found to interfere with the proper working of such stations, and in view to lessening the inconvenience, both to the public and to the station staff, the Railway authorities have in some cases introduced a system of issuing platform tickets, on payment of a nominal fee, by means of which persons desiring to see their friends off, or to meet them on arrival, can obtain admission to the railway platform.

2. The experiment has been tried with success at the Lahore station of the Sindh Punjab, and Delhi Railway, and it is believed that the system is being adopted at certain large stations on other Railways: but as doubts have been raised as to the legal right of the Railway authorities to issue such passes, His Excellency the Governor-General in Council is pleased to rule that, in future, when the railway authorities desire to exclude all but ticket-holders from railway platforms, the intention shall be duly notified in the Railway time-tables, and a printed notice to that effect, specifying the place where such tickets are obtainable and their cost, shall be drawn up with reference to Sections 3 (c) and 41 of the Indian Railway Act No. IV of 1879, and posted up in a conspicuous place outside the station.

3. Such a notice, His Excellency the Governor-General in Council is advised would be a sufficient "warning off" to justify the officers of a Railway in preventing any person from entering a Railway platform without a ticket, and in proceeding against him, if necessary, under Section 41 of the Act above quoted.

4. It will be distinctly understood that the Government *of India* considers a restriction of the nature herein referred to as undesirable, excepting where there is well established and absolute necessity for it, and that every facility should be given for obtaining tickets of admission, not only before the departure, but also before the arrival, of a train.

## ACT No. V of 1879.

(*Passed on the* 22*nd March* 1879).

An Act to amend the Presidency Banks Act, 1876.

Preamble. Whereas it is expedient to amend the Presidency Banks Act, 1876, in manner hereinafter appearing; It is hereby enacted as follows:—

Short title. Commencement. 1. This Act may be called "The Presidency Banks Act, 1879"; and it shall come into force on the first day of May, 1879.

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Amendment of Act XI of 1876, Section 28.

2. To the first clause of Section 28 of the Presidency Banks Act, 1876, the following proviso shall be added, that is to say :

"Provided that no person shall be chosen to be President or Vice-President twice in succession."

Amendment of Section 34 of same Act.

3. In the same Act, Section 34, before the words "no Khazanchi," the words "without the previous sanction of the Board" shall be inserted.

Amendments of Section 36.

4. In the same Act, Section 36, clause (*a*), sub-clause (4), after the words "municipal body," the words "or any body of Commissioners for making improvements in any port or of trustees of any port" shall be inserted.

In the same section, the words "in the case of the Bank of Madras" shall be omitted in both the places in which they occur.

In the same section, after clause (*m*), the following clause shall be inserted, that is to say, "(*mm*) the borrowing of money in India for the purposes of the Bank's business, and the giving of security for money so borrowed by pledging assets or otherwise."

Amendment of Section 37.

5. In Section 37 of the same Act, for clause (*d*), the following shall be substituted, that is to say,

"(*d*) Nor shall they (except upon the security mentioned in section thirty-six, paragraph *a*, Nos. 1 to 5 inclusive)

discount bills for any individual or partnership-firm for an amount exceeding in the whole at any one time such sum as may be prescribed by the bye-laws for the time being in force, or

lend or advance in any way to any individual or partnership-firm an amount exceeding in the whole at any one time such sum as may be so prescribed."

Amendment of Section 63.

6. In Section 63 of the same Act, clause (*a*), for the words "lent by discount of bills or otherwise to," the words "lent to or for which bills may be discounted for" shall be substituted.

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## ACT No. XI of 1879.

(*Passed on the 21st July 1879*).

The Local Authorities Loan Act, 1879.

Preamble.

Whereas it is expedient to re-enact the Local Public Works Loan Act, 1871, with the amendments hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Local Authorities Loan Act, 1879.

Local extent. Commencement.

It extends to the whole of British India, and shall come into force upon the passing thereof.

Repeal of Act XXIV of 1871.

2. The Local Public Works Loan Act, 1871, is hereby repealed. But all applications, declarations, authorizations, attachments, loans, and rules made under the said Act shall be deemed to have been made under this Act

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3. In this Act, "local authority" means any body corporate, municipal committee, or other persons legally entitled to the control and management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax upon any persons within any local area; and

"Local authority."

"funds," used with reference to any local authority, includes any local or municipal fund to the control, or management of which such authority is legally entitled, and any cess, rate, duty, or tax which such authority is legally entitled to impose, and any property vested in such authority.

"Funds."

4. Any local authority desiring to obtain a loan, on the security of its funds, or any portion thereof, for the carrying out of any works which it is legally authorized to carry out, may, in manner provided by the rules made by the Governor-General in Council, under the power hereinafter conferred, apply to the Local Government for such loan.

Loans for works may be granted on security of funds.

5. The Governor-General in Council may, from time to time, make rules consistent with this Act as to—

Power to Governor-General in Council to make rules.

(1) the nature of the funds on the security of which loans may be made;

(2) the works for which loans may be made;

(3) the manner of making applications for loans;

(4) the inquiries to be made in relation to such loans, and the manner of conducting such inquiries;

(5) the cases and the forms in which particulars of applications and proceedings, and orders thereon, shall be published;

(6) the cases in which the Local Government may make loans without the previous sanction of the Governor-General in Council, and the cases in which such previous sanction must be obtained;

(7) the manner of recording and enforcing the conditions on which such loans are to be made;

(8) the manner and time of making loans;

(9) the inspection of any works carried out by means of loans;

(10) the instalments by which loans shall be repaid, the interest to be charged on loans, and the manner and time of repaying loans and of paying the interest thereon;

(11) the sum to be charged against the funds which are to form the security for the loan, as costs in effecting the loan;

(12) the attachment of such securities, and the manner of disposing of or collecting them;

(13) the accounts to be kept in respect of loans,

and as to all other matters incidental to carrying this Act into effect

All such rules shall be published in the *Gazette of India*.

NOTE.—The Rules framed under this section are printed at the end of the Act.

6. If any loan made under such rules, or any interest or costs due in respect thereof, is or are not repaid according to the conditions of the loan, the Local Government may attach the funds on the security of which the loan

Remedy by attachment if loan not repaid.

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was made. After such attachment, no person except an officer appointed in this behalf by the Local Government, shall, in any way, deal with the attached funds; but such officer may do all acts in respect thereof which the borrower might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan, and of all interest and costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings;

Attachment not to defeat prior charges legally made.

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

Local Government may authorize parties to borrow from private persons under this Act.

7. The Local Government, with the previous sanction of the Governor-General in Council, may authorize any local authority which might, under the provisions hereinbefore contained, have borrowed money for any work upon the security of its funds, to borrow money from any other person for such work upon such security; and, if any such loan or the interest thereon is not duly paid, the Local Government shall, upon the application of the lender, attach such funds for his benefit in manner provided by section six.

Power to make rules in regard to such loans.

The Governor-General in Council may, in respect of loans to be taken under this section, exercise the power conferred by section five, so far as the same may be applicable to the case of such loans.

NOTE.—Referring to paragraph 11 of the Resolution of the Government of India in the Financial Department, No. 1967, dated the 31st July last, in which it was stated that, owing to the limited means at present at the disposal of Government for granting loans to municipal and other corporations, no application for such loans should be made or forwarded by any Government officer except for purposes which admit of no postponement, I am directed to invite attention to Section 6 * of the Local Public Works Loans' Act, 1871.

2. This section permits loans to be taken on the authority of the Local Government with the previous sanction of the Governor-General in Council, from persons other than Government, under the same conditions as those under which money might have been borrowed from Government, that is, on the same security, for the same purposes, and subject to the same powers of recovery.

3. I am to suggest that if it shall appear to His Honor the Lieutenant-Governor that in any case a loan required by a municipality or other local body for any work of public improvement, which might under ordinary circumstances have been provided for by a Government loan, can be raised locally, an application should be made to the Government of India for sanction to such loan being taken on the terms mentioned in Section 6 of the Act referred to. In submitting any such application it should be shown that the loan required can be taken up from purely local resources, and that the funds from which it will be drawn, will not diminish those available for meeting any general loan which the Imperial Government may wish to raise.—(*Government of India No.* 21-908, *dated* 26*th October* 1876).

Loans not to be effected except under this Act.

8. Except as provided by this Act and the rules made hereunder, no local authority shall for any purpose borrow money upon or otherwise charge its funds; and any contract otherwise made for that purpose after the passing of this Act, shall be void:

Provided that nothing herein contained shall be deemed—

(*a*) to preclude the Municipality of Calcutta, Madras, or Bombay, or the Trustees of the Port of Bombay, or the Commissioners for making improvements in the Port of Calcutta, or any like body hereafter created

* Section 7 of this Act.

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for the Port of Madras, from exercising the borrowing powers conferred on them by any special enactment now or hereafter in force ; or

(*b*) to preclude any other local authority from exercising the borrowing power (if any) conferred on it by any such enactment with a view to raising money for any purpose other than the carrying out of works ; or

(*c*) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied.

NOTE.—Clause (*c*) has been added by Act XV of 1885.

Application of Act to loans existing previous to the fifth of September, 1871.

**9.** The Secretary of State in Council shall be entitled to the remedy mentioned in section six for the recovery of any money lent by him to any local authority before the 5th day of September, 1871, and the interest due on such money ; and the Governor-General in Council, or the Local Government, may declare that any person who before the said fifth day of September, 1871, has lent money to any local authority, shall be entitled to the said remedy for the recovery of such money, or of the interest due thereon.

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NOTE.—No. 15.—In exercise of the powers conferred by Section 5 of the Local Authorities Loan Act, 1879, the Governor-General in Council has made the following Rules for the grant of loans to Local Authorities by the Government :—

1. These rules shall come into force on the 1st day of February 1889. On and from that date the rules published with Notification No. 2749, dated 17th August 1883, in so far as they relate to the granting of loans, shall be rescinded except as regards loans applied for before these rules come into force.

2. In these Rules (1) "the Act" means "The Local Authorities Loan Act, 1879" ; (2) "Local Authority" and (3) "funds" have the meanings assigned to them respectively in the Act ; (4) "the Local Authority" means "the Local Authority applying for or, as the case may be, receiving or having received the loan ; (5) "loan" means "a loan under the Act," and (6) "Local Board" includes a district board and district council, and any body having like authority beyond the local limits of municipalities and cantonments.

3. A loan must be defined in rupees and not by the sterling, or any other foreign standard.

4. No loan shall be granted except for the construction or repair of works of public utility within the local limits of the area subject to the control of the Local Authority, or for the benefit of the inhabitants within those limits.

5. Without the consent of the Governor-General in Council, no loan shall be granted to any Local Board for the construction of any public work unless it be estimated that a direct net revenue will be derived therefrom equal to at least four per centum per annum on its capital cost. Provided, however, that the Local Government may make a loan, not exceeding Rs. 10,000, to a Local Board, for a work designed especially to employ labour for the purpose of relieving distress.

6. An application for a loan shall state—

*1st*, the work or works for the construction or repair of which the loan is required and an estimate of the cost thereof :

*2nd*, the amount which it is proposed to borrow :

*3rd*, the fund or funds on the security of which it is proposed to borrow :

*4th*, the law or laws under which the said fund or funds is or are levied, received or held :

*5th*, the period for which the loan is required, the number and amount of the instalments if any, in which it is proposed that the loan shall be taken, the dates proposed for receiving such instalments, and the instalments, if any, in which it is proposed to repay the loan ;

*6th*, a detailed account of the revenue and expenditure of the Local Authority for the three last preceding years :

[*Note.*—Debt and deposit transactions, such as receipts from, and repayments of, loans and deposits from contractors and others, should not be included under revenue and expenditure, but should be shown separately. All important variations in the amounts of revenue and expenditure should be explained.]

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*7th*, all existing prior charges upon the funds of the Local Authority.

7. The Local Government shall cause such inquiry as it thinks necessary or expedient to be made into the statements contained in the application and into the use and value of the proposed work.

8. If it appears to the Local Government that the loan ought not to be granted, it shall reject the application.

9. If it appears to the Local Government probable that the loan ought to be granted, it shall cause to be published in the local official Gazette, and otherwise as it deems fit, within the local limits of the area subject to the control of the Local Authority, a copy of the application and such particulars in regard to any enquiry made under Rule 7, as it may think necessary.

10. After the expiry of one month from such publication, and after calling for any further information which it may require, and considering any objections which may be preferred, the Local Government may either reject the application, or grant the loan if funds are available from the grant placed at its disposal for the purpose: Provided that where the Local Authority is any one of the corporations mentioned or referred to in clause (*a*) of the proviso to Section 8 of the Act, the Local Government, if it approves the application, shall not itself proceed to sanction it, but shall refer the application for the orders of the Governor-General in Council.

11. The Local Government shall make such provision as may seem to be necessary for the proper inspection of all works which are being carried out by means of a loan, and for ascertaining and securing that the loan is duly applied to the purposes for which it is made. Every such work, and the accounts connected therewith, shall be open at all times to the inspection of the Superintending or Executive Engineer in whose division the work is situate, and of any person who may be authorised to inspect the accounts of the Local Authority, and of any other person specially authorised by the Local Government in this behalf.

12. If the Local Government considers that the conditions on which a loan was granted have not been fulfilled, or that the Local Authority has failed to comply with any of the requirements of these Rules, it may, at any time, order that no further payments shall be made on account of such loan, and recover the amount advanced, with interest thereon, in the manner mentioned in Section 6 of the Act.

13. Interest shall be charged half-yearly on each loan at the rate agreed upon; and shall be reckoned and paid on each instalment from the date on which it is received.

14. The Local Authority may, at any time, with the previous consent of the Local Government, repay the whole or any part of a loan made from the Public Treasury in advance of the period fixed by the conditions of the loan.

15. The cost of any enquiry made under Rule 7, of advertisements published under Rule 9, of inspections made under Rule 11, and of any other proceedings by order of the Local Government or the Governor-General in Council under these Rules, shall be determined by the Local Government, and shall be paid by the Local Authority.

16. (*a*) The accounts of every loan shall be kept by the Accountant-General of the Province in which it is made.

(*b*) The Local Authority shall give to the Accountant-General and the Local Government any information which they may require regarding the expenditure of the loan, and regarding its funds.

17. An annual Statement of all loans granted under the Act, repayments due and made during the year, and balances outstanding at the beginning and end of the year, in each Province, or under each Local Government, shall be prepared by the Accountant General and submitted to the Government of India through the Local Government, which shall add a report of the progress of the works. Such Statement shall be published in the local official Gazette.

18. An attachment of any funds under Section 6 of the Act, shall be made by a notice to the Local Authority prohibiting the collection or management of such funds by the Local Authority, and vesting the administration thereof in such officer as the Local Government may appoint. Such notice shall be published in the local official Gazette, and otherwise, as may be directed by the Local Government, within the local limits of the area subject to the control of the Local Authority. The moneys collected or received under such attachment shall be paid into the Government Treasury; and the accounts of moneys so collected, and of the cost of the collection, shall be prepared in such form as the Local Government may from time to time direct. A copy of the Accounts shall be delivered to the Local Authority and published in the local official Gazette.

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No. 16.—In exercise of the powers conferred by Sections 5 and 7 of the Local Authorities Loan Act, 1879, the Governor-General in Council has made the following Rules for the raising of loans by Local Authorities in the open market:—

1. These rules shall come into force on the 1st day of February 1889. On and from that date the rules published with Notifications Nos. 2748, and 2471, dated 17th August 1883, and 11th May 1888, respectively, in so far as they relate to the authorisation of loans, shall be rescinded, except as regards loans applied for before these Rules come into force.

2. In these Rules (1) "The Act" means "The Local Authorities Loan Act, 1879"; (2) "Local Authority" and (3) "funds" have the meanings assigned to them respectively in the Act; (4) "the Local Authority" means the Local Authority applying for permission to raise or, as the case may be, raising or having raised the loan; and (5) "loan" means a loan under the Act.

3. A loan must be defined in rupees and not by the sterling or any other foreign standard.

4. No loan shall be raised except for the construction or repair of works of public utility within the local limits of the area subject to the control of the Local Authority, or for the benefit of the inhabitants within those limits.

5. Whenever it is desired to obtain the authorisation of the Government to the raising of a loan under Section 7 of the Act, a statement shall be submitted to the Local Government showing:—

*1st*, the work, or works for the construction or repair of which the loan is required, and an estimate of the cost thereof:

*2nd*, the amount which it is proposed to borrow:

*3rd*, the fund or funds on the security of which it is proposed to borrow:

*4th*, the law or laws under which the said fund or funds is or are levied, received or held:

*5th*, the dates between which money borrowed is to be received:

[*Note.* It is essential that the authority to borrow in the market should be limited to a reasonable time, as loans of any considerable amount cannot be held in suspense indefinitely. The dates, therefore, must be fixed with reference to this condition, and must not be so wide apart and so indefinite as practically to be no limitation.]

*6th*, the term of years for which the money is to be borrowed, the instalments, if any, in which it is to be repaid, and the amount of sinking fund, if any, provided for its repayment:

*7th*, a detailed account of the revenue and expenditure of the Local Authority for the last three preceding years:

[*Note.*—Debt and deposit transactions, such as receipts from and repayments of loans and deposits from contractors and others, should not be included under revenue and expenditure but should be shown separately. All important variations in revenue and expenditure should be explained.]

*8th*, all existing prior charges upon the funds of the Local Authority.

6. The Local Government shall cause such enquiry as it thinks necessary or expedient to be made into the statements contained in the application and into the use and value of the proposed work.

7. If it appears to the Local Government that the loan ought not to be raised, it shall reject the application.

8. If it appears to the Local Government probable that the loan ought to be raised, it shall cause to be published in the local official Gazette, and otherwise, as it deems fit, within the local limits of the area subject to the control of the Local Authority, a copy of the application and such particulars, in regard to any enquiry made under Rule 6, as it may think necessary.

9. After the expiry of one month from such publication, and after calling for any further information which it may require, and considering any objections which may be preferred, the Local Government may either reject the application or sanction it: Provided that, where the Local Authority is any one of the corporations mentioned or referred to in clause (*a*) of the proviso to Section 8 of the Act, the Local Government, if it approves the application, shall not itself proceed to sanction it unless it is authorized so to do by some special enactment for the time being applicable to the corporation, but shall refer the application for the orders of the Governor-General in Council.

10. The Local Government shall make such provision as may seem to be necessary for the proper inspection of all works which are being carried out by means of a loan, and for ascertaining and securing that the loan is duly applied to the purpose for which it is raised. Every such work, and the accounts connected therewith, shall be open at all times to the

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inspection of the Superintending or Executive Engineer in whose division the work is situate, and of any person who may be authorised to inspect the accounts of the Local Authority, and of any other person specially authorised by the Local Government in this behalf.

11. The cost of any enquiry made under Rule 6, of advertisements published under Rule 8, of inspections made under Rule 10, and of any other proceedings by order of the Local Government or the Governor General in Council under these Rules, shall be determined by the Local Government, and shall be paid by the Local Authority.

12. The Local Authority shall give to the Accountant-General and the Local Government any information which they may require regarding the expenditure of the loan, and regarding its funds.

13. An attachment of any funds under Section 6 of the Act shall be made by a notice to the Local Authority prohibiting the collection or management of such funds by the Local Authority, and vesting the administration thereof in such officer as the Local Government may appoint. Such notice shall be published in the local official Gazette, and otherwise, as may be directed by the Local Government, within the local limits of the area subject to the control of the Local Authority. The moneys collected or received under such attachment shall be paid to the lender, and the accounts of moneys so collected, and of the cost of collection, shall be prepared in such form as the Local Government may from time to time direct. A copy of the accounts shall be delivered to the Local Authority and published in the local official Gazette.

(*Government of India Nos.* 15, 16, *dated* 1*st January* 1889, *Gazette of India of* 5*th idem, Part* 1, *p.* 13).

See also Government of India Resolutions Nos. 13, 14, dated 1st January 1889 (*Gazette of India of* 5*th idem, Part I, p.* 6 *and p.* 12).

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## ACT No. XII of 1879.

*(Passed on the* 29*th July* 1879).

An Act to amend the Code of Civil Procedure,* the Registration Act, 1877, and the Limitation Act, 1877.

* * * * * * * * * *

Preamble.

AND whereas it is also expedient to amend the Indian Registration Act, 1877, in manner hereinafter appearing; it is hereby further enacted as follows:—

Amendment of Act III of 1877, Section 35.

**104.** In Section 35 of the same Act, after the words "person appears," the words "to the registering officer" shall be inserted; and after the words "refuse to register the document," the words "as to the person so denying appearing, or dead" shall be inserted.

Amendment of Section 51.

**105.** In Section 51 of the same Act, for the figures "87," the figures "89" shall be substituted.

Amendment of Section 83.

**106.** In Section 83 of the same Act, for the words "Subordinate Magistrate of the first," the words "Magistrate of the second" shall be substituted.

Amendment of Section 89.

**107.** In Section 89 of the same Act for the words "the certificate," the words "the copy" shall be substituted, and to the same section the following paragraph shall be added (namely):—

"Every Court granting a certificate under Section 316 of the Code of Civil Procedure, shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1."

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*Act XII of 1879, so far as it relates to the Code of Civil Procedure, is repealed by Act XIV of 1882.

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AND whereas it is also expedient to amend the Indian Limitation Act, 1877, in manner hereinafter appearing; it is hereby further enacted as follows:—

Amendment of Act XV of 1877, Schedule II.

108. In the second schedule to the said Indian Limit aon Act, 1877,—

* for No. 161, the following shall be substituted, namely:—

| | | |
|---|---|---|
| "161.—For the issue of a notice under Section 258 of the same Code, to show cause why the payment or adjustment therein mentioned should not be recorded as certified. | Twenty days. | When the payment or adjustment is made. |

to No. 166, column one, the following words shall be added (namely): "or on the ground that the decree-holder has purchased without the permission of the Court";

* to No. 171, column one, the words "or appellant" shall be added; and in column three, after the word "plaintiff's" the words "or appellant's" shall be inserted;

* after No. 171, the following shall be inserted (namely):—

| | | |
|---|---|---|
| "171 A.—Under Section 366 of the same Code, by the defendant. | Sixty days ... | The sixtieth day from the day of the plaintiff's death. |
| "171 B.—Under Section 368 of the same Code, to have the representative of a deceased defendant made a defendant. | Ditto ... ... | The date of the defendant's death. |
| "171 C.—Under Section 371 of the same Code, for an order to set aside an order for abatement or dismissal. | Ditto ... ... | The date of the order for abatement or dismissal." |

and in No. 179, column three, paragraph 6, for the words "specified date (the date so specified," the words "certain date) such date" shall be substituted.

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## ACT No. XIV of 1879.

(*Passed on the 5th September* 1879).

An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

Preamble.

Whereas it is expedient to provide for the regulation and control of hackney-carriages in certain muncipalities and cantonments; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Hackney-Carriage Act, 1879":

Commencement.

and it shall come into force at once;

Saving.

but nothing herein contained shall affect any power conferred by any law relating to muncipalities, or any rule made in exercise of any such power.

Interpretation-clause.

2. In this Act—

"Hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies for hire; and

* But see now Act VII of 1888.

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"Committee" means a Municipal Committee, or a body of Municipal Commissioners constituted under the provisions of any enactment for the time being in force.

Application of Act to municipalities.

**3.** The Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burmah, Assam, Ajmere, and Coorg, may, by notification in the Official Gazette, apply this Act to any municipality in the territories administered by them respectively.

Power of committees to make rules.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Confirmation and publication of rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe, have the force of law :

Power of Local Government to rescind rules.

Provided that the Local Government may, at any time, rescind any such rule.

NOTES.—(*a*). The provisions of the Act have been extended to—

I. The Municipality of Lahore.—(*Notification No.* 362, *dated* 10*th October* 1879, *Punjab Gazette of* 16*th idem*).

II. The Municipality of Amritsar.—(*No.* 371, *dated* 8*th October* 1880, *Punjab Gazette of* 14*th idem*).

III. The Municipalities of Delhi, Rawalpindi, and Jullundur.—(*No.* 254, *dated* 6*th August* 1881, *Punjab Gazette of* 11*th idem*).

IV. The Municipality of Mooltan.—(*No.* 25, *dated* 26*th January* 1882, *Punjab Gazette of* 2*nd February*).

V. The Municipality of Peshawar.—(*No.* 779, *dated* 28*th August* 1882, *Punjab Gazette of* 31*st idem*).

VI. The Municipality of Sialkot.—(*No.* 495, *dated* 19*th December* 1882, *Punjab Gazette of* 21*st idem*).

(*b*). Rules have been framed under this section by the undermentioned Municipalities and have been confirmed by the Lieutenant-Governor :—

I. Lahore, extending to Shalimar and Shahdara.—(*No.* 327, *dated* 3*rd March* 1888, *Punjab Gazette of* 8*th idem*).

II. Amritsar.—(*No.* 374, *dated* 8*th October* 1880, *Punjab Gazette of* 14*th idem*).

III. Delhi, and Jullundur.—(*Nos.* 255, 257, *dated* 6*th August* 1881, *Punjab Gazette of* 11*th idem*).

IV. Mooltan.—(*No.* 26, *dated* 26*th January* 1882, *Punjab Gazette of* 2*nd February*, *and No.* 2937 *B*, *dated* 19*th November* 1884, *Punjab Gazette of* 20*th idem*, *Part I*, *page* 1129).

V. Peshawar.—(*No.* 780, *dated* 28*th August* 1882, *Punjab Gazette of* 31*st idem*).

VI. Sialkot.—(*No.* 496, *dated* 19*th December* 1882, *Punjab Gazette of* 21*st idem*).

VII. Rawalpindi.—(*No.* 2541, *dated* 5*th November* 1885, *Punjab Gazette of* 12*th idem*, *Part I*, *p.* 884).

Power to make rules for cantonments.

**4.** The Local Government of any of the said territories may, from time to time, subject to the control of the Governor-General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered

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by it; and the Governor-General in Council may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned.

All rules made under this section, when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law.

NOTE.—Rules under this section have been made by the Lieutenant-Governor applicable to the following cantonments :—

I. Delhi.—(*No.* 258, *dated* 6*th August* 1881, *Punjab Gazette of* 11*th idem*).

II. Rawalpindi.—(*No.* 2512, *dated* 5*th November* 1885, *Punjab Gazette of* 12*th idem, Part I, page* 888).

III. Jullundur.—(*No.* 260, *dated* 6*th August* 1881, *Punjab Gazette of* 11*th idem*, amended by *No.* 1365, *dated* 11*th May* 1885, *Punjab Gazette of* 14*th idem, Part I, page* 347).

IV. Ferozepur.—(*No.* 261, *dated* 6*th August* 1881, *Punjab Gazette of* 11*th idem*).

V. Umballa.—(*No.* 262, *dated* 6*th August* 1881, *Punjab Gazette of* 11*th idem*, revised by *No.* 430, *dated* 9*th December* 1881, *Punjab Gazette of* 15*th idem, and No.* 504, *dated* 27*th December* 1882, *Punjab Gazette of* 4*th January* 1883).

VI. Mooltan.—The Lieutenant Governor has declared the rules framed for the Municipality of Mooltan applicable to the cantonment.—(*No.* 27, *dated* 26*th January* 1882, *Punjab Gazette of* 2*nd February, and No.* 2937 *C dated* 19*th November* 1884, *Punjab Gazette of* 20*th idem, Part I, page* 1129).

VII. Peshawar.—(*No.* 781, *dated* 28*th August* 1882, *Punjab Gazette of* 31*st idem*).

VIII. Sialkot.—(*No.* 497, *dated* 19*th December* 1882, *Punjab Gazette of* 21*st idem*).

IX. Mian Mir.—(*No.* 43, *dated* 9*th January* 1889, *Punjab Gazette of* 10*th idem*).

Power to extend operation of rules beyond limits of municipality or cantonment.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned :

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor-General in Council.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor-General in Council, extend the operation of such rules to any cantonment, the boundary of which is not more than six miles distant from the boundary of such municipality.

What rules under Sections 3 and 4 may provide for.

6. The rules to be made under section three or section four may, among other matters,—

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

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(*d*) regulate the description of animals, harness, and other things to be used with licensed carriages, and the conditions in which such carriages, and the animals, harness, and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise ;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness, and other things are kept ;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension ;

(*g*) provide for the numbering of such carriages ;

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same ;

(*i*) appoint places as stands for hackney-carriages, and prohibit such carriages waiting for hire except at such places ;

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage ; and prescribe the minimum speed at which such carriages when hired by time shall be driven ;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage ;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English, and such other language as may be prescribed, affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list ;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges, and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

**7.** Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and payment of expenses.

**8.** The amount of any fees received, and the amount of any expenses incurred in giving effect to this Act, shall in any municipality be credited and debited respectively to the municipal fund, and in any cantonment where there is a cantonment-fund, to such fund.

Power of Magistrate to decide disputes regarding fares.

**9.** If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen ; and such Magistrate or bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time, as such Magistrate or bench thinks fit.

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Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.

The decision of any Magistrate or bench in any case under this section shall be final.

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of dispute, hirer may require driver to take him to Court.

**10.** If at the time any dispute mentioned in section nine arises, any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

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## ACT No. XVIII of 1879.

*(Passed on the 29th October 1879).*

An Act to consolidate and amend the law relating to Legal Practitioners.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to legal practitioners in the Lower Provinces of Bengal, the North-Western Provinces, the Punjab, Oudh the Central Provinces, and Assam, and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit; It is hereby enacted as follows :—

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### CHAPTER I.

PRELIMINARY.

Short title. Commencement.

**1.** This Act may be called "The Legal Practitioners Act, 1879," and shall come into force on the first day of January, 1880.

Local extent.

This section and section two extend to the whole of British India.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governor of the Lower Provinces of Bengal, the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces and Assam. But any other Local Government may, from time to time, by notification in the official Gazette, extend all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.

Repeal of enactments.

**2.** On and from the first day of January, 1880, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.

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Saving of rules, &c.

All rules and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given, and orders passed under any enactment hereby repealed shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, issued, given, and passed under this Act.

References to repealed enactments.

All references made to any enactments hereby repealed, in any Act or Regulation passed, or notification published, shall be read as if made to the corresponding provisions of this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"Judge" means the presiding judicial officer in every civil and criminal Court, by whatever title he is designated :

"Subordinate Court" means all Courts subordinate to the High Court, including Courts of Small Causes established under Act No. IX of 1850 or Act No. XI of 1865 :

"Revenue-Office" includes all Courts (other than Civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents :

"Legal practitioner" means an advocate, vakil, or attorney of any High Court, a pleader, mukhtar, or revenue-agent.

## CHAPTER II.

### Of Advocates, Vakils, and Attorneys.

Advocates and vakils.

Every person now or hereafter entered as an advocate or vakil on the roll of any High Court under the Letters Patent constituting such Court, or under Section 41 of this Act, shall be entitled to practice in all the Courts subordinate to the Court on the roll of which he is entered and in all revenue-offices situate within the local limits of the appellate jurisdiction of such Court, subject, nevertheless to the rules in force relating to the language in which the Court or office is to be addressed by pleaders or revenue-agents; and any person so entered who ordinarily practises in the Court on the roll of which he is entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court on whose roll he is not entered, or, with the permission of the Court, in any High Court on whose roll he is not entered, and in any revenue-office:

Provided that no such vakil shall be entitled to practise under this section before a Judge of the High Court, Division Court, or High Court exercising original jurisdiction in a presidency-town.

NOTE.—As amended by Act IX of 1884, Section 2.

Attorneys of High Court.

5. Every person now or hereafter entered as an attorney on the roll of any High Court, shall be entitled to practise in all Courts subordinate to such High Court and in all revenue-offices situate within the local limits of the appellate jurisdiction of such High Court, and every person so entered who ordinarily practises in the Court on the roll of which he is so entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court established by Royal Charter on the roll of which he is not entered and in any revenue-office.

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The High Court of the province in which an attorney practises under this section may, from time to time, make rules declaring what shall be deemed to be the functions, powers, and duties of an attorney so practising.

## CHAPTER III.

### Of Pleaders and Mukhtars.

Power to make rules as to qualification, &c., of pleaders and mukhtars.

6. The High Court may, from time to time, make rules consistent with this Act as to the following matters (namely) :

(*a*) the qualifications, admission, and certificates of proper persons to be pleaders of the subordinate Courts, and of the revenue-offices situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court ;

(*b*) the qualifications, admission, and certificates of proper persons to be mukhtars of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court ;

(*c*) the fees to be paid for the examination and admission of such persons ; and

(*d*) the suspension and dismissal of such pleaders and mukhtars.

Publication of rules.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law : Provided that, in the case of rules made by a High Court not established by Royal Charter, such rules have been previously approved by the Local Government.

Certificates to pleaders and mukhtars.

7. On the admission, under section six, of any person as a pleader or mukhtar, the High Court shall cause a certificate, signed by such officer as the Court, from time to time, appoints in this behalf, to be issued to such person authorizing him to practise up to the end of the current year in the Courts, and, in the case of a pleader, also the revenue-offices, specified therein.

At the expiration of such period the holder of the certificate, if he desires to continue to practise, shall, subject to any rules consistent with this Act which may, from time to time, be made by the High Court in this behalf, be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court, from time to time, appoints in this behalf.

On every such renewal, the certificate then in possession of such pleader or mukhtar shall be cancelled and retained by such Judge or officer.

Every certificate so renewed shall be signed by such Judge or officer, and shall continue in force up to the end of the current year.

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

NOTE. The Divisional Court shall, in the Punjab, be deemed to be the District Court for the purposes of this Act. See Notes (*a*) and (*b*) to Section 23, Act XVIII of 1884.

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Pleaders on enrolment may practise in Courts and revenue-offices.

8. Every pleader holding a certificate issued under section seven may apply to be enrolled in any Court or revenue-office mentioned therein and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted; and subject to such rules consistent with this Act as the High Court or the Chief Controlling Revenue-Authority may, from time to time, make in this behalf, the presiding Judge or officer shall enrol him accordingly; and thereupon he may appear, plead, and act in such Court or office and in any Court or revenue-office subordinate thereto.

NOTE.—See Note (*g*) at end of this Act.

Mukhtars on enrolment may practise in Courts.

9. Every mukhtar holding a certificate issued under section seven may apply to be enrolled in any Civil or Criminal Court mentioned therein and situate within the same limits; and subject to such rules as the High Court may from time to time make in this behalf, the presiding Judge shall enrol him accordingly; and thereupon he may practise as mukhtar in any such Civil Court and any Court subordinate thereto, and may (subject to the provisions of the Code of Criminal Procedure) appear, plead, and act in any such Criminal Court and any Court subordinate thereto.

NOTE.—The Rules framed under SS. 6—9 are printed at the end of the Act, Note (*a*).

No person to practise as pleader or mukhtar unless qualified.

10. Except as provided by this Act or any other enactment for the time being in force, no person shall practise as a pleader or mukhtar in any Court not established by Royal Charter unless he holds a certificate issued under section seven and has been enrolled in such Court or in some Court to which it is subordinate:

Revenue-agents may appear, plead and act in Munsifs' Courts in suits under Bengal Act VIII of 1869.

Provided that persons who have been admitted as revenue-agents before the first day of January 1880, and hold certificates, as such, under this Act in the territories administered by the Lieutenant-Governor of Bengal, may be enrolled in manner provided by section nine in any Munsif's Court in the said territories, and on being so enrolled may appear, plead, and act in such Court in suits under Bengal Act No. VIII of 1869 (*to amend the procedure in suits between Landlord and Tenant*), or under any other Act for the time being in force regulating the procedure in suits between land-holders and their tenants and agents.

Power to declare functions of mukhtars.

11. Notwithstanding anything contained in the Code of Civil Procedure, the High Court may, from time to time, make rules declaring what shall be deemed to be the functions, powers, and duties of mukhtars practising in the subordinate Courts, and, in the case of a High Court not established by Royal Charter, in such Court.

NOTE.—See Note (*b*) at end of this Act.

Suspension and dismissal of pleaders and mukhtars convicted of criminal offence.

12. The High Court may suspend or dismiss any pleader or mukhtar holding a certificate issued under section seven who is convicted of any criminal offence implying a defect of character which unfits him to be a pleader or mukhtar, as the case may be.

Suspension and dismissal of pleaders and mukhtars guilty of unprofessional conduct.

13. The High Court may also, after such enquiry as it thinks fit, suspend or dismiss—

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any pleader holding a certificate as aforesaid who takes instructions in any case except from the party on whose behalf he is retained, or a private servant of such party, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, or

any pleader or mukhtar holding a certificate as aforesaid who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

Provided that where the party is—

(*a*) a pardanashin woman, or

(*b*) unable for any sufficient cause to instruct the pleader in person,

nothing in this section shall make a pleader liable to suspension or dismissal merely by reason that he has taken instructions from a relative or friend authorised by the party to give such instructions and not receiving any remuneration in respect thereof.

NOTE.—The above proviso has been added by Act IX of 1884, Section 3.

Procedure when charge of unprofessional conduct is brought in subordinate Court or revenue-office.

**14.** If any such pleader or mukhtar practising in any subordinate Court or in any revenue-office is charged in such Court or office with taking instructions except as aforesaid or with any such misconduct as aforesaid, the presiding officer shall send him a copy of the charge, and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Suspension pending investigation.

Such copy and notice shall be served upon the pleader or mukhtar at least fifteen days before the day so appointed.

On such day or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall receive and record all evidence properly produced in support of the charge, or by the pleader or mukhtar, and shall proceed to adjudicate on the charge.

If such officer finds the charge established, and considers that the pleader or mukhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court; and the High Court may acquit, suspend, or dismiss the pleader or mukhtar.

Any District Judge, or with his sanction any Judge subordinate to him, any Judge of a Court of Small Causes of a presidency-town, any District Magistrate, or with his sanction any Magistrate subordinate to him, and any Revenue Authority not inferior to a Collector, or with the Collector's sanction any Revenue-officer subordinate to him, may, pending the investigation and the orders of the High Court, suspend from practise any pleader or mukhtar charged before him or it under this section.

Every report made to the High Court under this section shall

(*a*) when made by any Civil Judge subordinate to the District Judge, be made through such Judge;

(*b*) when made by a Magistrate subordinate to the Magistrate of the District, be made through the Magistrate of the District and the Sessions Judge;

(*c*) when made by the Magistrate of the District, be made through the Sessions Judge;

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(*d*) when made by any Revenue-officer subordinate to the Chief Controlling Revenue Authority, be made through such Revenue Authorities as the Chief Controlling Revenue Authority may, from time to time, direct.

Every such report shall be accompanied by the opinion of each Judge, Magistrate, or Revenue Authority through whom or which it is made.

NOTE.—As amended by Act IX of 1884, Section 4.

Power to call for record in case of acquittal under Section 14.

**15.** The High Court, in any case in which a pleader or mukhtar has been acquitted under section fourteen, otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

Power to make rules for mukhtars on appellate side of High Court.

**16.** Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, Section 37, clause (*a*), any High Court established by Royal Charter may, from time to time, make rules consistent with this Act as to the following matters (namely) :—

(*a*) the qualifications and admission of proper persons to be mukhtars practising on the appellate side of such Court ;

(*b*) the fees to be paid for the examination and admission of such persons;

(*c*) the security which they may be required to give for their honesty and good conduct ;

(*d*) the suspension and dismissal of such mukhtars ; and

(*e*) declaring what shall be deemed to be their functions, powers, and duties ;

and may prescribe and impose fines for the infringement of such rules not exceeding in any case five hundred rupees ; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

## CHAPTER IV.

### OF REVENUE-AGENTS.

Power to make rules as to qualifications, &c., of revenue-agents.

**17.** The Chief Controlling Revenue Authority may, from time to time, make rules consistent with this Act as to the following matters (namely) :

(*a*) the qualifications, admission, and certificates of proper persons to be revenue agents ;

(*b*) the fees to be paid for the examination and admission of such persons ;

(*c*) the suspension and dismissal of such revenue-agents ; and

(*d*) declaring what shall be deemed to be their functions, powers, and duties.

Publication of rules.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

NOTE.—See Note (*g*) at end of Act.

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Certificates to revenue-agents.

18. On the admission of any person as a revenue-agent under section seventeen, the Chief Controlling Revenue Authority shall cause a certificate signed by such officer as such Authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise up to the end of the current year in such revenue-offices as may be specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Secretary of the Chief Controlling Revenue Authority, or by any other officer authorized by such Authority in that behalf.

On every such renewal, the certificate then in the possession of such revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer and shall continue in force to the end of the current year.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue Authority.

Enrolment of revenue-agent.

19. Every revenue-agent holding a certificate issued under section eighteen may apply to be enrolled in any revenue-office mentioned therein and situate within the limits of the territory under the Chief Controlling Revenue Authority; and, subject to such rules as the Chief Controlling Revenue Authority may, from time to time, make in this behalf, the officer presiding in such office shall enrol him accordingly, and thereupon he may practise as a Revenue-agent in such office and in any Revenue-office subordinate thereto.

No person to act as agent in revenue-offices unless qualified.

20. Except as provided by this Act or any other enactment for the time being in force, no person, other than a pleader duly qualified under the provisions hereinbefore contained, shall practise as a revenue-agent in any revenue-office, unless he holds a certificate issued under section eighteen and has been enrolled in such office or some other office to which it is subordinate:

Provided that any person duly authorized in this behalf may, with the sanction of the Chief Controlling Revenue Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his principal may be concerned in any revenue office.

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by the authority or officer granting the same.

Dismissal of revenue-agent convicted of criminal offence.

21. The Chief Controlling Revenue Authority may suspend or dismiss any revenue-agent holding a certificate issued under this Act who is convicted of any criminal offence implying a defect of character which unfits him to be a revenue-agent.

Dismissal of revenue-agent guilty of unprofessional conduct.

22. The Chief Controlling Revenue Authority may also, after making such enquiry as it thinks fit, suspend or dismiss any revenue-agent holding a certificate issued under the Act who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

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Procedure when revenue-agent is so charged in subordinate office.

**23.** If any revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge, and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the person charged at least fifteen days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the officer, or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established, and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Chief Controlling Revenue Authority; and such Authority shall proceed to acquit, suspend, or dismiss him.

Any revenue-officer not inferior to a Collector, and, with the Collector's sanction, any revenue-officer subordinate to him, or any Munsif in his district, may, pending the investigation and the orders of the Chief Controlling Revenue Authority, suspend from practice any revenue-agent charged before him under this section.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall transmit the report through such Commissioner, who shall forward with the same an expression of his own opinion on the case.

Power to Chief Controlling Revenue Authority to call for record.

**24.** The Chief Controlling Revenue Authority, in any case in which a revenue-agent has been acquitted under section twenty-three otherwise than by an order of the Chief Controlling Revenue Authority, may call for the record and pass such order thereon as seems fit.

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## CHAPTER V.

### OF CERTIFICATES.

Fee for certificates.

**25.** Every certificate, whether original or renewed, issued under this Act shall be written upon stamped paper of the value prescribed therefor in the second schedule hereto annexed, and of such description as the Local Government may from time to time prescribe:

Provided that a certificate issued on or after the first day of July in any year may be written on stamped paper of half the value so prescribed.

NOTES.—(*a*). As amended by Act IX of 1884, Section 5.

(*b*). In supersession of Notification No. 240, dated the 8th March 1887, and under the provisions of Section 25 of Act XVIII of 1879 as amended by Section 5 of Act IX of 1884, the Hon'ble the Lieutenant-Governor is pleased to prescribe impressed labels as the description of stamp for use on certificates of admission of pleaders, mukhtars and revenue agents issued under Act XVIII of 1879, (*Punjab Government Notification No. 743, dated 18th July 1887, Punjab Gazette of 21st idem, Part I, page 368*).

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Dismissed practitioners to surrender certificates.

26. When any pleader, mukhtar, or revenue-agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court or officer at the head of the office before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue Authority (as the case may be) orders him to deliver the same.

## CHAPTER VI.

### OF THE REMUNERATION OF PLEADERS, MUKHTARS AND REVENUE-AGENTS.

High Court and Chief Controlling Revenue Authority to fix fees on civil and revenue proceedings.

27. The High Court shall, from time to time, fix and regulate the fees payable by any party in respect of the fees of his adversary's advocate, pleader, vakil, mukhtar or attorney upon all proceedings (*a*) on the appellate side of such Court, (*b*) in the case of a High Court not established by Royal Charter, on its original side, and (*c*) in subordinate Courts, and in respect of the fees of his adversary's revenue-agent appearing, pleading or acting under Section 10.

NOTE.—As amended by Act IX of 1884, Section 6.

The Chief Controlling Revenue Authority shall, from time to time, fix and regulate the fees payable upon all proceedings in the revenue-offices by any party in respect of the fees of his adversary's advocate, pleader, vakil, attorney, mukhtar or revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Exception as to agents mentioned in Section 20.

Nothing in this section applies to the agents mentioned in the proviso to section twenty.

NOTE.—For Rules regarding pleader's fees in the Chief Court and subordinate Courts see Notes (*e*) and (*j*) at end of the Act.

Agreements with clients.

28. No agreement entered into by any pleader, mukhtar or revenue-agent with any person retaining or employing him respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges or disbursements in respect of business done or to be done by such pleader, mukhtar, or revenue-agent shall be valid unless it is made in writing, signed by such person, and is, within fifteen days from the day on which it is executed, filed in the District Court, or in some Court in which some portion of the business in respect of which it has been executed has been or is to be done.

NOTE.—See Note to Section 7, *ante*.

Power to modify or cancel agreements.

29. Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges, and disbursements in respect of the business done to be ascertained in the same manner as if no such agreement had been made.

Agreements to exclude further claims.

30. Such an agreement shall exclude any further claim of the pleader, mukhtar, or revenue-agent beyond the terms of the agreement with respect to any services, fees, charges, or disbursements in relation to the conduct and completion of the business in respect of which the agreement is made, except such services, fees, charges, or disbursements, if any, as are expressly excepted by the agreement.

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Reservation of responsibility for negligence.

31. A provision in any such agreement that the pleader, mukhtar, or revenue-agent shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such pleader, mukhtar, or revenue-agent, shall be wholly void.

## CHAPTER VII.

### PENALTIES.

On persons illegally practising as pleaders, mukhtars, or revenue-agents.

32. Any person who practises in any Court or revenue-office in contravention of the provisions of section ten or section twenty, shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding ten times the amount of the stamp required by this Act for a certificate authorizing him so to practise in such Court or office, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

He shall also be incapable of maintaining any suit for or enforcing any lien with respect to any fee or reward for, or with respect to, anything done or any disbursement made by him as pleader, mukhtar, or revenue-agent whilst he has been contravening the provisions of either of such sections.

On suspended or dismissed pleader, &c., failing to deliver certificate.

33. Any pleader, mukhtar, or revenue-agent failing to deliver up his certificate as required by section twenty-six, shall be liable, by order of the Court, Authority, or officer to which or to whom, or according to whose orders, the delivery should be made, to a fine not exceeding two hundred rupees, and, in default of payment, to imprisonment in the civil jail for a term which may extend to three months.

On suspended or dismissed practitioner practising during suspension or after dismissal.

34. Any pleader, mukhtar, or revenue-agent who, under the provisions of this Act, has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a pleader, mukhtar, or revenue-agent in any Court or revenue-office, shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

Revision of fines.

35. Every order under section thirty-two, thirty-three, or thirty-four shall be subject to revision by the High Court where the order has been passed by a subordinate Court, and by the Chief Controlling Revenue Authority where the order has been passed by an officer subordinate to such Authority.

Penalty for receiving or giving commission.

36. Whoever commits any of the following offences,—

(*a*) solicits or receives from any legal practitioner any gratification in consideration of procuring or having procured his employment in any legal business;

(*b*) retains any gratification out of remuneration paid or delivered, or agreed to be paid or delivered, to any legal practitioner for such employment;

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(c) being a legal practitioner, tenders, gives, or consents to the retention of any gratification for procuring or having procured the employment in any legal business of himself or any other legal practitioner,

shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

NOTE.—See Note (d) at the end of the Act.

## CHAPTER VIII.

### MISCELLANEOUS.

Local Government to appoint examiners.

37. To facilitate the ascertainment of the qualifications mentioned in sections six and seventeen respectively, the Local Government shall, from time to time, appoint persons to be examiners for the purposes aforesaid, and may, from time to time, make regulations for conducting such examinations.

Exemption of High Court practitioners from certain parts of Act.

38. Except as provided by sections four, five, sixteen, twenty-seven thirty-two and thirty-six, nothing in this Act applies to advocates, vakils, and attorneys admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, or to mukhtars practising in such Court, or to advocates enrolled under Section 41 of this Act.

NOTE.—As amended by Act IX of 1884, Section 7.

Suspension or dismissal of person holding mukhtár and revenue-agent's certificates.

39. When any person who holds a certificate as a mukhtár under section seven, and a certificate as a revenue-agent under section eighteen, is suspended or dismissed in one of such capacities, he shall be deemed to be suspended or dismissed, as the case may be, also in the other.

Pleaders, &c., not to be suspended or dismissed without being heard.

40. Notwithstanding anything hereinbefore contained, no pleader, mukhtár, or revenue-agent shall be suspended or dismissed under this Act unless he has been allowed an opportunity of defending himself before the authority suspending or dismissing him.

Power for certain High Courts to enrol advocates.

41. (1) A High Court not established by Royal Charter may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

(2) Every advocate so enrolled shall be entitled to appear for the suitors of the Court, and to plead or to act, or to plead and act, for these suitors, according as the Court may by its rules determine, and subject to those rules.

(3) The High Court may dismiss any advocate so enrolled or suspend him from practice.

(4) Provided that the advocate shall not be dismissed or suspended under this section, unless he has been allowed an opportunity of defending

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himself before the High Court which enrolled him, and, except in the case of the Chief Court of the Punjab, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government.

NOTE.—For rules under the above section, see Note (*c*) at end of the Act.

Repeal of Acts I of 1846 and XX of 1853.

**42.** Act I of 1846 *(for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company)* and Act XX of 1853 *(to amend the law relating to pleaders in the Courts of the East India Company)* are repealed.

NOTE.—The two last sections have been added by Act IX of 1884, Sections 8 and 9.

## FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section* 2).

| Number and date of enactments. | Title. | Extent of repeal. |
|---|---|---|
| Act XX of 1865 ... | To amend the law relating to Pleaders and Mukhtárs. | The whole. |
| Act XXIX of 1865 ... | To amend the Pleaders, Mukhtárs, and Revenue-agents Act, 1865. | So much as has not been repealed. |
| Act IX of 1866 ... | To extend to the Sudder Court of the North-Western Provinces certain provisions of "The Pleaders, Mukhtárs and Revenue-agents Act, 1865," and of Act No. XXIX of 1865. | The whole. |
| Act IV of 1876 ... | To authorize Revenue-agents to practise in certain suits in the Munsifs' Courts of the Lower Provinces of Bengal. | The whole. |
| Act XVII of 1877 ... | The Punjab Courts Act, 1877, ... ... | Sections forty-two, forty-three, forty-four and forty-five. |

## SECOND SCHEDULE.

VALUE OF STAMPS FOR CERTIFICATES.

(*See Section* 25).

I.

For a certificate authorizing the holder to practise as a pleader—

(*a*) In the High Court and any subordinate Court—rupees fifty :

(*b*) In any Court of Small Causes in a Presidency-town—rupees twenty-five :

(*c*) In all other subordinate Courts—rupees twenty-five :

(*d*) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars, in Courts of Small Causes outside the Presidency-towns, and in all Criminal Courts subordinate to the High Court—rupees fifteen :

(*e*) In the Courts of Munsifs and any Civil or Criminal Court of first instance not herein before specifically mentioned—rupees five.

II.

For a certificate authorizing the holder to practise as a mukhtar—

(*f*) In the High Court and any subordinate Court—rupees twenty-five:

(*g*) In any Court of Small Causes in a Presidency-town—rupees fifteen :

(*h*) In all other subordinate Courts—rupees fifteen :

(*i*) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildars, in Courts of Small Causes outside the Presidency-towns, and in all Criminal Courts subordinate to the High Court—rupees ten :

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SECOND SCHEDULE—(*continued*).

(*j*) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

III.

For a certificate authorizing the holder to practise as a revenue-agent—

(*k*) In the office of the Chief Controlling Revenue Authority and in any Revenue-office subordinate to such Authority—rupees fifteen :

(*l*) In the office of a Commissioner and in any Revenue-office subordinate to a Commissioner—rupees ten :

(*m*) In the office of a Collector and in any Revenue-office subordinate to a Collector—rupees five.

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NOTES.—(*a*).—The following rules, under Sections 6, 7, 8 and 9 of Act XVIII of 1879, have been approved by the Local Government, and have been issued in supersession of all previous rules on the subject with effect from 1st January 1885.

Rules issued.

2. In connection with these rules, the Court desires to point out that, under Act XVIII of 1879, every Pleader and Mukhtar, before he can legally practise in the Punjab, must (1) be admitted by the Chief Court : (2) hold a certificate original or renewed, issued under Section 7 ; and (3) be enrolled either in the Chief Court or in some Court subordinate thereto, under Section 8 or Section 9, according as he is a Pleader or Mukhtar. It must further be borne in mind that, under the provisions of Section 10, a Pleader or Mukhtar cannot practise in any particular Court unless he has been enrolled in that Court or some Court to which it is subordinate ; and, under the provisions of Sections 8 and 9, a Pleader or Mukhtar cannot be enrolled in a Court not mentioned in his certificate. Pleaders and Mukhtars of the 2nd grade can no longer, therefore, be enrolled in the Chief Court, but must enroll themselves in as many of the Civil and Criminal Courts subordinate thereto as may be necessary to meet the requirements of the law noted above.

Conditions to be fulfilled before a Pleader or Mukhtar can practise in any Court.

3. Revenue Courts exercising jurisdiction under Chapter V of the Punjab Courts Act, 1884, it is to be observed, are not Courts subordinate to the Chief Court ; and enrolment of Pleaders with a view to practising in Revenue Offices is, by Section 8 of the Act, to be regulated by rules made by the Chief Controlling Revenue Authority. With regard to these, the function of this Court extends only to entering in the certificate of a Pleader, the Revenue Offices in which he is authorized to practise.

Revenue Courts.

4. With reference to Schedule II of the Act, which establishes in the Punjab four classes of Pleaders and Mukhtárs, if the classification be according to certificates,* it will be observed that a Pleader or Mukhtár of either grade may, in order to pay a smaller fee, elect, if he chooses, to confine his practise to some lower grade of Court than the highest for which he has qualified himself, and may take out a certificate accordingly.

Pleaders of higher grade may elect to practise in Courts of lower grade.

5. For the purpose of enrolling Pleaders and Mukhtárs under Act XVIII of 1879 in the subordinate Civil Courts, it has been directed that the registers maintained, before the passing of Act XVIII of 1884, in the Courts of Commissioners and Deputy Commissioners should henceforward be kept up in the Divisional Courts and Courts of District Judges, and that all existing registers opened in Courts of Small Causes and of Munsifs should continue to be maintained. New registers were also to be opened in other Courts of the last mentioned classes, as occasion might arise.

Registers to be opened and kept up in Civil Courts.

6. For the purpose of enrolling Pleaders and Mukhtârs under the Act in the subordinate Criminal Courts, Courts of Sessions were directed to open registers for Pleaders ; and District Magistrates, for Pleaders and Mukhtárs.

And in Criminal Courts.

7. A form of Register is prescribed in Schedule 2 annexed to the rules, and separate pages should be allotted in the registers to each grade of Pleader and Mukhtár.

Form of Register.

8. Enrolment in Courts subordinate to the Chief Court is obligatory only upon Pleaders and Mukhtârs admitted after January 1st, 1880, as persons previously enrolled are protected by Section 2 of the Act. But as a matter of convenience, all persons practising in such subordinate Courts only should be called on to enrol themselves in the Courts of the highest grade mentioned in their certificates within the limits of whose jurisdiction they ordinarily practise.

All Pleaders and Mukhtárs should be enrolled.

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Entries of suspension or dismissal to be made in registers.

9. Rule XXIII provides that all final orders by which a Pleader or Mukhtár of either grade is suspended or dismissed shall be notified in the *Punjab Gazette*. On the publication of such a notification, if the order be one of suspension, a note of the period should be made in the registers of the various Courts in which the person suspended is enrolled; or, if the order be one of dismissal, the name of the person dismissed should be struck off the registers of such Courts; and in either case the order should be communicated to all subordinate Courts.

Meaning of "District Judge" in the Act.

10. The Court further points out that the expression "District Judge" in the Legal Practitioners Act, 1879, will in future mean the Divisional Court instead of the Commissioner's. Consequently, every report made to the Chief Court by a Civil Judge subordinate to the Divisional Court, who has held a proceeding as such Judge under Section 14, must be made through the Divisional Court; and, if made by a Civil Judge subordinate to the District Judge appointed under the Punjab Courts' Act, 1884, should be made through the latter officer also. Moreover, the sanction of the Divisional Court is necessary before any Civil Judge subordinate to him, holding proceedings under Section 14, can suspend from practice a Pleader or Mukhtár, pending the orders of the Chief Court.

Form of certificate.

11. As regards the certificates for Pleaders and Mukhtars, the forms given in Schedule 1 of the rules will ordinarily be used. But in the special cases mentioned in paragraph 2 of this Circular, special entries will be necessary as to the particular Courts to which the certificate extends.

Stamp duty on certificates.

12. For the purpose of ascertaining the stamp duty payable upon certificates, so much of Schedule II of the Act as relates to the Civil and Criminal Courts of the Punjab, as they are constituted under the existing law, may be paraphrased as follows :—

Part I, *a* to *e* as to Pleaders. Part II, *f* to *j* as to Mukhtárs.

1 (*a*) & (*f*). In the Chief Court, and any Court, Civil or Criminal, subordinate thereto.

(*b*) & (*g*) are not applicable to the Punjab.

2 (*c*) & (*h*). In all Courts, Civil or Criminal, subordinate to the Chief Court.

3 (*d*) & (*i*). In the Courts of District Judges, Subordinate Judges and Munsifs constituted under Act XVIII of 1884 (the Punjab Courts' Act), in Courts of Small Causes, and in all Criminal Courts subordinate to the Chief Court.

4 (*e*) & (*j*). In the Courts of Munsifs, and any Criminal Court of first instance not hereinbefore specifically mentioned.

It is to be observed that Pleaders are authorized to practise as such, and not as Revenue Agents in the Revenue Offices to which their certificate extends, and that Part III of the Schedule does not therefore affect them. On the other hand Mukhtars are not, as such, entitled to practise in the Revenue Offices.

Annual list of legal practitioners.

13. A list of persons entitled to act as legal practitioners in the Punjab, will be published annually as heretofore. With a view to the compilation of this list, District Judges should, not later than the 15th January of each year, report through Divisional Courts to the Chief Court whether any of the Advocates, Pleaders or Mukhtars shown in the last published list as practising in their districts, have died or removed elsewhere during the year, or, in the case of Pleaders and Mukhtars, failed to renew their certificates.

Notes to be made in Registers of subordinate Courts according to annual list.

14. The Court's list of legal practitioners will be amended in accordance with these returns, and printed copies of the amended list will be distributed to all judicial officers in the Punjab, with a supplementary list containing the names of the persons who have died or failed to renew their certificates since the last list was published. On receipt of these lists, the names of persons who have died should be removed from any registers in which they may still be borne ; and in the case of persons who have not renewed their certificates, the fact should be noted in the various registers in which such persons are enrolled.

Renewal of certificate and removal of names.

15. Should any person who has been dealt with under the last paragraph subsequently renew his certificate within the period allowed by Rule XIV, the grant of a renewed certificate should be intimated to the various Courts in which he is enrolled for the information of such Courts and the Courts subordinate to them, as well as to the Chief Court. If no application for a renewed certificate be made within three years, the name of the person should, at the expiration of that period, be struck off all the registers in which he is enrolled.

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* 16. The Chief Court has reserved to itself the power of directing the admission, in special cases, of any person to the law classes or to the examinations in law of the Punjab University. The Judges have decided that this power will in future be confined to exemption from attendance at the law lectures, and that no exemption will be granted from any examination prescribed as a preliminary or final test for admission as Pleader or Mukhtar under the rules. Ordinarily, no application for admission to either of the examinations will be granted, unless it reaches the Chief Court office at least two months before the date fixed for the examination.

Power of exemption from law classes or examinations.

Attention drawn to the changes in the rules previously in force.

17. The particulars in which the rules previously in force have been amended are briefly as follows :—

Rule I.—Only Pleaders of the first grade will, in future, be entitled to practise in the Court of the Financial Commissioner.

Rule IV.—Mukhtars of both grades will, in future, be restricted as regards practise in criminal cases, to Courts inferior to the Court of Session; this rule has been framed in accordance with Sections 6, 7 and 9 of the Act.

NOTE.—With reference to this Rule, the Judges would draw attention to the provisions of Sections 340 and 4 (*n*) of the Code of Criminal Procedure. The new rules restrict Mukhtars as regards practice in criminal cases to Courts inferior to the Court of Session; but the Judges desire to explain that, under clause (*n*) of Section 4, Criminal Procedure Code, a Sessions Judge may give permission to a Mukhtar of either grade to act for the accused in his defence in any particular case.

Rule V.—Requires that a second grade Mukhtar shall have passed the final Examination in Law of the Punjab University College, or University, in order to become admissible as a Mukhtar of the first grade.

Rules IX & XIII.—Require the applicant's declaration to state additional particulars as to the Courts to which he desires his certificate to extend.

Rules XVI to XXIII.—Prescribe an amended procedure to be followed in enquiries when Pleaders and Mukhtars are charged in the Chief Court with misconduct.

This first schedule embodies new forms of the certificates which will ordinarily be granted to Pleaders and Mukhtars. Special cases are dealt with in paragraph 11 of this Circular.

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*Rules under Sections 6, 7, 8 and 9 of Act XVIII of 1879, to regulate the qualification, admission, certificates and enrolment of proper persons to be Pleaders and Mukhtars of the Courts of the Punjab, the fees to be paid for the admission of such persons, and the suspension and dismissal of Pleaders and Mukhtars so admitted and enrolled.*

Pleaders to be of two grades.

I. Pleaders in the Courts of the Punjab shall be of two grades, that is to say,—

(1) Pleaders of the first grade, who may appear, plead and act in the Chief Court and all Courts, Civil and Criminal, subordinate thereto, and in the office of the Financial Commissioner and all Revenue Offices subordinate thereto.

(2) Pleaders of the second grade, who may appear, plead and act in all Courts, Civil and Criminal, subordinate to the Chief Court, and in all Revenue Offices subordinate to the Financial Commissioner.

Persons who are admissible to be Pleaders of the first grade.

II. The following persons are declared admissible, and shall, with the permission of the Chief Court, and upon proof of good character, be admitted as Pleaders of the first grade :—

(1) Attorneys of Her Majesty's superior Courts of Record in England and Ireland, and Writers to the Signet.

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* As the meaning of the concluding portion of Book Circular No. XII—2128, dated the 29th June 1885, which is embodied in paragraph 16 of Judicial Circular No. CXVII, appears open to doubt, the Judges of the Chief Court have been pleased to substitute for the last paragraph of the Circular the following paragraph :—

"With reference to paragraph 13 of Book Circular XVI of 1884, notice is hereby given that in future the power of exemption reserved by this Court, will ordinarily be confined to granting exemption from attendance at the Law Lectures; and, save in very exceptional cases, no exemption will be granted from any examination prescribed as a preliminary or final test for admission to any examination in law held under the Rules of the Punjab University as for the time being approved by the Court."

The second sentence of paragraph 16 of Judicial Circular No. CXVII should be considered as amended accordingly.

(*Book Circular No. XI of* 1887).

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(2) Members of the Society of Solicitors practising before the Court of Session in Scotland.

(3) Vakils or Attorneys-at-Law of any chartered High Court of Judicature, who shall produce certificates that they have actually practised in any such Court for a period of three years at least, and that their names are still borne on the rolls of the Court. *Provided* that the Court may, for special reasons, dispense with such certificates.

(4) Persons, other than Advocates, licensed to practise in the Punjab under the provisions of Chapter VI of Act XVII of 1877.

(5) Persons addmitted as Pleaders of the second grade under these rules, or the rules dated respectively 18th December 1879, 14th October 1878, and 19th May 1874, who shall, at the time of their applications, have practised regulárly in the subordinate Courts for the periods noted below, and shall satisfy the Chief Court that they are qualified to practise as Pleaders in the Chief Court: *Provided* that the Court may, on good cause being shown, reduce any of the prescribed periods to such shorter period as the Court may think fit.

Such period shall be—

(i) In the case of persons who can produce certificates of having passed the Honors in Arts Examination of the Punjab University College or University, or of having obtained the degree of Master of Arts or Bachelor of Law at one of the recognized Universities in British India—3 years.

(ii) In the case of persons who can produce certificates of having passed the High Proficiency in Arts Examination of the Punjab Unversity College or University, or of having obtained the degree of Bachelor of Arts at one of the recognized Universities in British India—4 years.

(iii) In all other cases—5 years.

(6) Extra Assistant Commissioners or Judicial officers of equal or superior official rank, who have passed the departmental examination prescribed for the higher standard, and who have quitted the service of Government: *Provided* that the application for admission be made within three years of their leaving Government service, and shall be granted subject to such conditions as the Chief Court may impose with regard to the locality in which the applicant shall práctise.

*Explanation.*—A person admitted under this clause will not ordinarily be permitted to practise in any district in which he has served Government, unless his official connection with that district has ceased for five years.

Persons who are admissible to be Pleaders of the second grade.

III. The following persons are declared admissible, and shall with the permission of the Chief Court, and upon proof of good character, be admitted as Pleaders of the second grade:—

(1) Persons who shall have obtained the degree of Bachelor of Law at one of the recognized Universities in British India.

(2) Persons holding certificates of having passed the final examination in law under the rules in force for the law classes of the Punjab University College or University: *Provided* that the said rules, so far as they relate to admission to the law classes and examination therein, have been, and continue to be, approved by the Chief Court. *

(3) Any Tahsildar, Munsif or other Government servant holding an office of such a nature that the officer's duties cannot be efficiently discharged without a competent knowledge of substantive law and the laws of procedure, may, upon quitting office under Government, be admitted by special order to be a Pleader of the second grade without having passed the prescribed examination.

No order of admission will be made under this clause unless the candidate shall have satisfied the Court, either by passing such special examination as the Court may direct, or otherwise, that he is qualified to be a Pleader. No person admitted under this clause can become a Pleader of the first grade until he shall have passed the examination prescribed for Pleaders of the second grade, and shall thereafter have practised for the period prescribed in clause 5 of Rule II, for persons passing such examination.

The provisions of clause 6 of Rule II apply, *mutatis mutandis*, to all persons seeking admission under this clause.

Mukhtars to be of two grades.

IV. Mukhtars in the Courts of the Punjab shall be of two grades:—

(1) Mukhtars of the first grade who may practise as such in the Chief Court in its civil jurisdiction, and in all Civil Courts subordinate thereto: and may, subject to the provisions of the Code of Criminal Procedure, appear, plead and act in all Criminal Courts inferior to the Court of Session.

* See Addendum, p. 1350.

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(2) Mukhtars of the second grade who may practise as such in all Civil Courts subordinate to the Chief Court; and may, subject to the provisions of the Code of Criminal Procedure, appear, plead and act in all Criminal Courts inferior to the Court of Session.

Persons who are admissible to be Mukhtars of the first grade.

V. The following persons are admissible, and, with the permission of the Chief Court, shall be admitted as Mukhtars of the first grade, namely :—

Mukhtars admitted under the rules of 19th May 1874. and Mukhtars of the second grade admitted under these rules, or the rules dated respectively 18th December 1879, and 14th October 1878, who shall, at the time of their applications, have practised regularly for not less than three years in the subordinate Courts, and have passed the examination mentioned in Rule III, clause (2).*

Persons who are admissible to be Mukhtars of the second grade.

VI. The following persons are declared admissible, and shall, with the permission of the Chief Court, and upon proof of good character, be admitted as Mukhtars of the second grade namely :—

Persons who shall have obtained a certificate of having passed * the first examination in law under the rules in force for the law classes of the Punjab University College or University. *Provided* that the said rules, so far as they relate to admission to the law classes and examination therein, have been, and continue to be, approved by the Chief Court.

Application for admission.

VII. Application to be admitted as a Pleader or Mukhtar under the provisions of Act XVIII of 1879 shall be made by petition to the Chief Court, and shall be presented by the applicant in person, or by an Advocate, Pleader, or Mukhtar practising in the Chief Court and duly authorised in this behalf.

To be accompanied by evidence of qualifications and the prescribed fee.

VIII. The application shall be accompanied by evidence of the qualifications required, and the fee fixed by the rules for the time being in force; and, if the applicant holds any appointment under Government, or carries on any trade or other business at the time of his application, the fact shall be stated therein.

Admission and grant of certificate.

IX. The application will be considered by the Court; and if it be granted, the Registrar shall give to the applicant a certificate in the form annexed to these rules, on his furnishing the requisite stamp-paper and a declaration in writing stating his ordinary place of business, and the Civil and Criminal Courts and the Revenue Offices which he desires to be specified therein, and shall thereupon notify his admission in the *Punjab Gazette*. *Provided* that, if the certificate be not taken out within the year in which the applicant is admitted, it shall not be issued without a special order of the Court.

Fee payable on admission.

X. A fee shall be payable by every person admitted by the Chief Court to be a Pleader or Mukhtar under the foregoing rules according to the following scales :—

By a Pleader of either grade, Rs. 10
By a Mukhtar of ditto, ,, 5

Applications for enrolment.

XI. Application to be enrolled as a Pleader or Mukhtar under the provisions of Sections 8 or 9 of Act XVIII of 1879 shall be made by petition to the Court in which the applicant desires to be enrolled. The application shall be accompanied by the certificate referred to in Section 7, and shall be presented by the applicant in person, or by an Advocate, Pleader or Mukhtar practising in the Court and duly authorised in this behalf.

Enrolment.

XII. If it appear from the certificate that the applicant is entitled to be enrolled, the Court shall enter his name in its Register † of Pleaders and Mukhtars, and endorse on his certificate a memorandum in the form given in the schedule annexed to these rules.

Renewal of certificate.

XIII. Applications for renewal of certificates shall be made by petition to the Chief Court, or to the Divisional Court of the Civil Division in which the applicant ordinarily practises, at least two weeks before the expiry of the certificate, and shall be accompanied by the expiring certificate, and a declaration in writing stating the applicant's ordinary place of business, and the Civil or Criminal Courts and the Revenue Offices, which he desires to be specified therein. Where the applicant desires to take out a certificate on a different stamp to that on the certificate previously issued to him, the declaration shall further state the grade of certificate required.

* See Addendum, p. 1350.
†For form *see* Schedule annexed to there rules.

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The application shall be presented by the applicant in person, or in the event of the applicant being unable to attend in person, by an Advocate, Pleader or Mukhtar practising in the Court and duly authorized in that behalf.

On the requisite stamp paper being supplied, a renewed certificate will be prepared and issued by the Registrar or a Judge of the Divisional Court, as the case may be, to the applicant, if he attend personally, or to the Advocate, Pleader or Mukhtar presenting the petition. On the renewed certificate will be endorsed the memoranda of enrolment recorded on the expiring certificate; and the endorsement will be authenticated by the renewing officer. When a certificate is renewed by a Judge of the Divisional Court, he shall forthwith notify such renewal to the Chief Court, and cancel and retain the superseded certificate for record in his office.

Pleader or Mukhtar failing to renew certificate for three years.

XIV. If any person having been admitted as a Pleader or Mukhtar of either grade, and having obtained a certificate, shall fail to renew it for a period of three years, he shall be suspended, and shall not be entitled to have his certificate renewed without a further order of the Chief Court.

Notice to be given to Chief Court if Pleader or Mukhtar accept a Government appointment, &c.

XV. Any person who, having been admitted as a Pleader or Mukhtar of either grade, shall accept any appointment under Government, or shall enter into any trade or other business, shall give notice thereof to the Chief Court, who may thereupon suspend such Pleader or Mukhtar from practise, or pass such orders as the said Court may think fit.

Charges against Pleaders and Mukhtars.

XVI. Applications to the Chief Court charging any Pleader or Mukhtar, holding a certificate under Section 7 of the Act, with misconduct, and praying for enquiry under Section 13, shall be heard by a single Judge of the Court, who shall pass thereon such orders as he thinks fit.

Application what to contain.

XVII. Every such application shall contain a brief and distinct statement of the facts upon which the applicant imputes misconduct, and shall be signed by the applicant. The statement shall be supported by one or more affidavits to the truth of the facts set out therein.

If inquiry is ordered, notice to be given to Pleader or Mukhtar charged. On date fixed evidence to be heard.

XVIII. If, upon any such application, it be ordered that an inquiry be held before the Chief Court, a statement of the charge to be enquired into shall be prepared and sent by the Registrar to the person charged, together with a notice intimating that, on a day to be therein appointed, such charge will be taken into consideration by the Court. Such copy and notice shall be served upon the Pleader or Mukhtar at least fifteen days before the day so appointed; and, on such day, or any subsequent day, to which the inquiry may be postponed or adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party preferring the charge, and by the Pleader or Mukhtar; and thereafter shall pass such orders as the Court shall consider just.

Judge of Chief Court may without application order inquiry.

XIX. Any Judge of the Chief Court may, without application, by special order direct an inquiry to be held before the Chief Court under Section 13 of the Act, when he is personally cognizant of facts which, in his opinion, justify such inquiry; and the procedure shall, so far as may be be the same as is provided in Rule XVIII.

Inquiry to be by single Judge.

XX. An enquiry ordered under Rule XVIII or Rule XIX, shall ordinarily be held before a single Judge of the Court.

Judges may direct inquiry to be held in any other manner.

XXI. Nothing in the preceding rules shall be deemed to restrict the power of the Court to direct, by order of one or more Judges of the Court, in what manner or by what persons any enquiry held under Section 13 shall be conducted; *Provided* that no Pleader or Mukhtar shall be suspended or dismissed after enquiry under the foregoing rules, except by an order made with the approval of not less than two Judges of the Court.

Powers of single Judge.

XXII. A single Judge of the Chief Court may (subject to the provisions of Section 40 of the Act) pass orders upon proceedings reported under Section 14, and exercise the power conferred by Section 15 of the Act.

Final order to be notified.

XXIII. Every final order by which a Pleader or Mukhtar is suspended or dismissed shall be notified by the Registrar in the *Punjab Gazette*.

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Rule for admission of Junior Government Advocate as 1st Grade Pleader.

XXIV.—Notwithstanding anything contained in Rules II, VII, VIII, IX, X, XI, XIII, XIV, and XV, and subject to the other preceding Rules, so far as they relate to Pleaders, and to the special provisions hereinafter contained, any person who for the time being fills the office of *Junior Advocate to the Government of the Punjab* is hereby declared to be admissible, and shall, with the permission of the Chief Court, be admitted as a Pleader of the 1st Grade.

(*a*) Application to be admitted may be made by letter from the Secretary to Government, Punjab, or the Government Advocate, Punjab, or the Junior Government Advocate, Punjab, to the Registrar, Chief Court, stating the name of the person desiring to be admitted, and the fact that he has been appointed (temporarily or permanently) to the office of Junior Government Advocate.

(*b*) The application shall be accompanied by an admission fee of Rs. 10, and the stamp paper requisite for a certificate of the kind required.

(*c*) The Registrar shall, under an order of the Court, grant a certificate in the special form hereunto annexed, and issue it to the person desiring to be admitted upon his signing an undertaking in writing that he will use such certificate for the purpose of practising as a pleader in any Court or office only on behalf of the Government, or of some person on whose behalf he may be authorized by the Government or by the Financial Commissioner to practise, and only while he fills the office of Junior Government Advocate.

(*d*) Application to be enrolled under Section 8 of Act XVIII of 1879 by reason of the certificate granted under this Rule, shall be made by petition to the Court in which the applicant desires to be enrolled. Such petition shall be accompanied by the certificate granted under this rule, and may be presented by the applicant in person, or forwarded with a covering letter to the Registrar of the Chief Court.

(*e*) A certificate granted to the Junior Government Advocate under this rule may be renewed upon an application by him in writing to the Registrar of the Chief Court accompanied by the certificate to be superseded and the stamp paper requisite for a new certificate. On the renewed certificate will be endorsed the memoranda of enrolment recorded on the expiring certificate, and such endorsement will be authenticated by the Registrar. The renewed certificate will be delivered or forwarded to the applicant, as he may desire, by the Registrar.

FORM OF CERTIFICATE.

PURSUANT to "The Legal Practitioners Act. 1879," I hereby certify that [Name ], Junior Government Advocate, Punjab[ or Officiating Junior Government Advocate, Punjab ], has been duly admitted by the Chief Court of the Punjab as a Pleader of the 1st Grade, and is entitled to practise as such Pleader, subject to the provisions of Section 8 of the Act above recited up to the end of the current year in the Courts and offices specified below :—

*Civil Courts.*

The Chief Court and all Civil Courts of inferior jurisdiction.

*Criminal Courts.*

The Chief Court and all Criminal Courts of inferior jurisdiction.

*Revenue Offices.*

The office of the Financial Commissioner and all Revenue Offices subordinate thereto.
Given under my hand and the seal of the Court this day of 188 .

*Registrar.*

NOTE.—Rule XXIV is added by Book Circular No. VIII of 1887.

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SCHEDULE OF FORMS.

1. FORM OF CERTIFICATES REFERRED TO IN RULE IX.

(For special cases see para. 11 of the preceding Circular).

(*a*) *Form of Pleader's Certificate.*

Pursuant to "the Legal Practitioners' Act, 1879," I hereby certify that..... whose ordinary place of business is at..... ..... has been duly admitted by the Chief Court of the Punjab as a Pleader of the..... .....grade, and is entitled

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to practise as such, subject to the provisions of Section 8 of the Act above recited, up to the end of the current year in the Courts and offices specified below, *viz* :—

1. Civil Courts.

The* [Chief Court *or* Divisional Court] and all Civil Courts of inferior jurisdiction.

2. Criminal Courts.

The* [Chief Court *or* Court of Sessions] and all Criminal Courts of inferior jurisdiction.

3. Revenue Offices.

The * [Office of the Financial Commissioner and all Revenue Offices subordinate thereto, or all Revenue Offices subordinate to the Office of the Financial Commissioner (*as the case may be*).]

Given under my hand and the seal of the Court this..... .....day of..... .....188

Signed *A. B.*
*Registrar, Chief Court, Punjab.*
or
*Judge of the Divisional Court of*
(as the case may be).

* (The highest Court Civil or Criminal, as the case may be, to which the certificate is to extend, should be specified).

*(b) Form of Mukhtar's Certificate.*

Pursuant to "The Legal Practitioners' Act, 1879," I hereby certify that..... .... ..... whose ordinary place of business is at... .....has been duly admitted by the Chief Court of the Punjab as a Mukhtar of the ..... ..grade, and is entitled to practise as such, subject to the provisions of Section 9 of the Act above recited, up to the end of the current year in the Courts specified below, *viz.*—

1. Civil Courts.

The * [Chief *or* Divisional Court] and all Civil Courts of inferior jurisdiction.

2. Criminal Courts.

All Courts inferior to the Court of Session.

Given under my hand and the seal of the Court this... .....day of..... .....188 .

Signed *A. D.*
*Registrar, Chief Court, Punjab.*
or
*Judge of the Divisional Court of*
(as the case may be).

* (The highest Court to which the certificate is to extend should be specified).

2. FORM OF REGISTER REFERRED TO IN RULE XII.

*Register of Pleaders and Mukhtars enrolled under Act XVIII of 1879.*

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| Name. | Date of admission by the Chief Court. | Date o enrolment. | REMARKS. |
| | | | |
| | | | |

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3. FORM OF MEMORANDUM OF ENROLMENT REFERRED TO IN RULE XII.

Certified that.....has this day been enrolled in the Court of the .....of ..... .....as a

Signed *A.*

Title (*as Judge of the Court*).

The following additions to the above rules have been approved by the Local Government :—

2. In Rule III, Clause (2), for the words "Persons holding" the following words are substituted :

"Persons who are graduates of the Punjab or of any other recognized University, or have passed the High Proficiency in Arts Examination of the Punjab University College and who hold"

*Note.*—This rule, as amended, will have effect from 1st January 1889.

3. In Rule V, for the concluding words, "have passed the examination, &c," substitute "have qualified under Rule III, Clause (2), as amended above."

*Note.*—This rule, as amended, will have effect from 1st January 1889.

4. In Rule VI, after the words "having passed," the following words are added :—

"The Intermediate Examination of the Punjab University, or the equivalent Examination of any other recognized University, or the Proficiency in Arts Examination of the Punjab University College and"

*Note.*—This rule, as amended, will have effect from 1st January 1887.

(*Judicial Circular No. CXVII*).

See Chief Court Circular Memo, No. 11-1094 of 1887.

(b).—FUNCTIONS, POWERS AND DUTIES OF MUKHTARS (ACT XVIII OF 1879, SECTION 11).

In exercise of the powers conferred by Section 11 of Act XVIII of 1879, the Court has made the following rule as to the functions, powers and duties of Mukhtars practising in the Civil Courts of the Punjab.

2. The Court also takes the present opportunity of pointing out to the Criminal Courts subordinate to it that the powers of Mukhtars in criminal cases are, by Section 9 of the Act above quoted, expressly made subject to the provisions of the Code of Criminal Procedure. (See also note to paragraph 17, Judicial Circular CXVII under Rule IV).

RULE.

Subject to the provisions of Section 10 of the Legal Practitioners, Act, 1879, any appearance, application or act in or to any Civil Court, authorized by law to be made or done by the recognized agent of a party, may be made or done by a duly appointed Mukhtar :

Provided that a Mukhtar shall not, except with the express permission of the Court, take any part in the examination of a party or witness :

Provided also that a Mukhtar shall not, under any circumstances, be permitted to state the case of his principal, or reply to the opposite party, under Sections 179 and 180 of the Code of Civil Procedure, or to address any argument to the Court at any stage of the proceeding in a suit or appeal in relation thereto.

*Explanation.*—Nothing in the foregoing rule shall be deemed to preclude the Court from asking, or a Mukhtar from replying to, such questions as the Court may consider necessary, in order to enable the Court to rightly understand the case presented on behalf of the person whom the Mukhtar represents.

(*Judicial Circular No. CXVIII*).

(c).—RULES UNDER SECTION 41 OF ACT XVIII OF 1879. (AMENDED BY SECTION 8, ACT IX OF 1884.) FOR THE QUALIFICATION AND ADMISSION OF PROPER PERSONS TO BE ADVOCATES OF THE CHIEF COURT OF THE PUNJAB.*

Advocates already practising in the Court to be admitted and enrolled.

All Advocates whose names were entered on the Court's "Register of Advocates and others entitled to practise in the Civil Courts of the Punjab, under Act XVII of 1877," at the time of the coming into force of the Legal Practitioners' Act 1879, shall be deemed to be duly qualified to be Advocates of this Court, and shall be admitted and enrolled accordingly.

Qualification for admission of other persons.

2. Any person who has been admitted as a Barrister in England or Ireland, or as a Member of the Faculty of Advocates in Scotland, may be admitted as an Advocate of this Court.

* Punjab Government Gazette Notification No. 2050, dated 14th July 1880.

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Applicant to produce certificate of call to the bar, and testimonials.

3. Every person applying under the above rule, to be admitted as an Advocate of this Court, must produce a certificate, showing that he has been admitted as a Barrister in England, or Ireland, or as a Member of the Faculty of Advocates in Scotland, together with satisfactory testimonials to his good character and ability.

Mode of applying for admission.

4. The mode of applying to be admitted as an Advocate of this Court shall be by letter stating the date on which the applicant was called to the bar, and whether it is his intention to practise within the jurisdiction of the Chief Court; and, if so, what district he proposes to make his ordinary place of business. The letter shall be addressed to, and left with, the Registrar of this Court, together with—

(1) The certificate required by rule 3;

(2) Testimonials to character and ability.

Certificate of admission and enrolment.

5. The application will be considered by the Court, and if it be granted, the Registrar will supply to the applicant a certificate of admission under his signature and the seal of the Court, and enrol his name in the Court's Register of Advocates.

Government Advocate.

6. Any person, not being a Barrister or Member of the Faculty of Advocates in Scotland, who holds the office of Advocate and Legal Adviser to the Government of the Punjab, shall be deemed to be qualified, by virtue of his office, to be an Advocate of the Chief Court, and may be admitted accordingly by a special order of the Court.

Certificate of being on the roll of Advocates.

7. Any Advocate of this Court may, on the payment of a fee of Rs. 5, obtain a certificate under the signature of the Registrar and the seal of this Court.

(*Judicial Circular No.* CXIII).

(*d*).—PROHIBITION OF THE EMPLOYMENT OF DALALS AND AGENTS BY MEMBERS OF THE LEGAL PROFESSION IN THE PUNJAB.

Notification prohibiting the employment of dalals.

In circulating the annexed notification on the subject of the employment of *dalals* and agents, the Chief Court requested the co-operation of all judicial officers in the suppression of the system and directed that any infringement of the terms of the notification by any Advocate, Pleader or Mukhtar practising in the Punjab, should at once be brought to the notice of the Court. Judges were also requested to take such steps as they might think most expedient to warn suitors against the employment of *dalals* and agents in selecting a Pleader or Mukhtar; and it was suggested as a good plan for the convenience of suitors to hang up in a conspicuous position a list of all certificated Pleaders and Mukhtars in the district.

NOTIFICATION BY THE CHIEF COURT.

*The 11th June 1873.*

No. 1537.—Whereas, at a Bar Meeting held at Lahore on May 24th, 1873, it was resolved that the practice now existing among the members of the legal profession in the Punjab of making payments or allowances to dalals or other agents or persons for introducing clients is open to grave objection, and that the making of any such payment or allowance in the future should be regarded by the members of the Bar as grave professional misconduct; and whereas the Chief Court fully concurs in the resolutions above noted,—

It is hereby publicly notified that this Court will henceforth regard the making of any such payment or allowance by any Advocate, Pleader or Mukhtar practising in the Courts of the Punjab, in any shape, direct or indirect, open or disguised, as grave professional misconduct, and will deal with it accordingly.

Files of all cases instituted under Section 36 of Act XVIII of 1879 to be submitted to the Chief Court.

2. The receiving or giving of commission has now been declared to be an offence by Section 36 of Act XVIII of 1879, and the Court has directed that the files of all cases instituted under this section shall, in whatever way the case terminates, be submitted for its orders on the conclusion of the proceedings if the order passed is not open to appeal, and on the expiration of the period allowed for appeal, or after the disposal of the appeal, according to circumstances, if the order passed is appealable.

(*Judicial Circular No.* CXX).

(*e*).—FEES OF COUNSEL IN PROCEEDINGS IN THE CHIEF COURT (ACT XVIII OF 1879 SECTION 27).

Rules subject to proviso as to Mukhtars.

The following rules, framed by the Chief Court under Section 27 of Act XVIII of 1879, fix and regulate the fees payable by any party in respect of the fees of his adversary's Advocate, Pleader, Vakil, Mukhtar or Attorney in proceedings in the Chief Court, subject to the following provisions as regards Mukhtars, that is to say:—

(*a*) the fee payable for a Mukhtar shall not exceed half the fee payable for a Pleade

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(*b*) when a Mukhtar is employed in conjunction with an Advocate, Pleader, Vakil, or Attorney, the Court, may, under special circumstances, allow an additional fee for the Mukhtar not exceeding in amount the fee which would have been payable if the Mukhtar had been employed alone.

RULES.

In suits for specific property for breach of contract, or damages.

In suits for the recovery of specific property, or a share of specific property whether moveable or immoveable, or for the breach of any contract or for damages,—

(*a*). If the amount or value of the property, debt, or damages decreed shall not exceed Rs. 3,000 the fee shall be calculated at 5 per cent on the amount or value decreed, but the Court may, in any case, otherwise order and fix such percentage as shall appear to be just and equitable.

(*b*). If the amount or value decreed shall exceed Rs. 3,000 the fee shall be calculated at such a percentage as shall appear to the Court to be just and equitable.

In suits for injuries to person, character, or property.

2. In suits for injuries to the person or character of the plaintiff, such as suits for assault or defamation, or for injuries to property, or to enforce rights where the pecuniary value of such injury or right cannot be exactly defined, as in suits for interference with a right to light or water, or to enforce a right of pre-emption, or suits for the partition of joint property, where partition is improperly resisted, if the plaintiff succeed, the Court may order the fee allowed to the plaintiff to be calculated with reference either to the amount decreed, or according to the valuation of the suit, or according to such a sum, not exceeding the valuation, as the Court shall think reasonable, and shall fix with reference to the importance of the subject of dispute. In any such case the amount of the fee shall be calculated according to Rule I.

Defendant's fee in suits which are dismissed.

3. If the suits be dismissed for default, or upon the merits, or be decreed for the defendant, the fee allowed to the defendant shall be calculated according to Rule 1 on the whole value of the suit.

If suit be partly decreed and partly dismissed, fees how to be calculated.

4. If the suit shall be decreed for the plaintiff as to part only of the claim, and as to the remainder shall be dismissed, or decreed for the defendant, the fee allowed to each party shall be fixed with reference to the value of that part of the claim in respect of which he shall succeed, and shall be calculated according to Rule 1.

Defendant not entitled to fees in certain suits for damages.

5. If in any suit for damages the plaintiff shall succeed as to the whole of his cause of action, but shall fail to recover the full amount of damages claimed, the defendant shall not be entitled to any allowance for Counsel in respect of the difference between the amount of damages claimed and the amount recovered, unless the Court shall be of opinion that the amount claimed for damages was unreasonable or excessive, and shall for that or any other cause, direct that a fee be allowed to the defendant.

If specially allowed, the amount of such fee shall be fixed with reference to the amount of damages disallowed to the plaintiff, and shall be calculated according to Rule I.

If there are several defendants who have a joint interest, only one fee to be allowed.

6. If several defendants, who have a joint or common interest, succeed upon a joint defence, or upon separate defences substantially the same, not more than one fee shall be allowed, unless the Court shall otherwise order. If only one fee be allowed, the Court shall direct to which of the defendants it shall be paid, or shall apportion it among the several defendants in such manner as the Court shall think fit.

When separate fee may be allowed in such cases.

7. If several defendants, who have separate interests set up separate and distinct defences and succeed thereon, a fee for each of the defendants who shall appear by separate counsel may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated with reference to the value of the separate interest of such defendant according to Rule I.

Fees in miscellaneous proceedings, &c.

8. In any miscellaneous proceeding, or for any matter other than that of appearing, acting or pleading in a suit prior to decree, the fee shall be fixed by the Court with reference to the nature and importance of the proceeding or matter; provided that in no case shall the amount allowed in respect of such fee exceed Rs. 100.

Fees in undefended original suits.

9. If a suit in the Chief Court, as a Court of original jurisdiction, be undefended, the fee shall be calculated at one-half the sum at which it would have been charged had the suit been defended.

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Fees in cases of review of judgment if former judgment upheld.

10. If a review be rejected after summoning the opposite party, or if, after the admission of a review, the former judgment be upheld, the fee, if allowed to the successful party in the review, shall be fixed by the Court at an amount which shall not in any case exceed one-half of the amount allowed by these rules in case of an original decree.

If former judgment revised.

11. If after the admission of a review, the former judgment be revised, the fee in respect of the review, if allowed to the party who succeeds in the review, shall not exceed one-half the amount allowed by these rules in case of an original decree. The fee allowed in respect of the review will be irrespective of any fee which may be included in any costs in respect of the original suit which may be adjudged to the successful party by the judgment in review, unless the Court shall otherwise order.

Fees in appeal cases.

12. In appeals the fee shall be calculated on the same scale as in original suits, and the principles of the above rules as to original suits shall be applied, as nearly as may be.

When interest of several appellants is joint.

13. When the interest of several appellants is joint, not more than one fee shall be allowed, unless the Court shall otherwise order. If one fee only be allowed, the Court shall direct to which of the appellants it shall be paid, or shall apportion it amongst the several appellants in such proportion as it shall think fit.

When several respondents appear by separate Counsel.

14. If several respondents in one appeal appear by separate Counsel, in determining whether separate fees shall be allowed, the Court shall be guided by the principles laid down in Rules 6 and 7.

Court may exercise its discretion in allowing fees.

15. If in any instance the payment of fees according to the preceding rules shall not appear to the Court to be just and equitable, the Court may exercise its discretion in allowing such fee as may appear just and equitable.

Appeals against a decree passed on remand.

Provided that, if an appeal be preferred against a decree passed on remand, the fee, if any, allowed by the Court to the party succeeding in that appeal shall not, unless the Court shall otherwise order, be less than one-quarter, nor more than one-half, of the amount that would be allowed under the rules upon an original hearing, if, by the decree remanding the case, the same party shall have been allowed fees in respect of the former appeal in the suit, either absolutely, or conditionally upon his succeeding upon the remand.

Fees in cases referred to lower Court for trial of issues.

Provided also, that if an issue be framed and referred by the Court for trial by a lower Court, the Court may, if it think proper, allow to the party, who shall succeed in the appeal, such a sum as the Court shall consider reasonable, not exceeding half the amount that would be allowed under these rules in an original case for his fee in respect of the trial of the issue in the lower Court, in addition to a fee in respect of the appeal.

*(Judicial Circular No. CXXI.).*

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(*f*).—FEES OF COUNSEL IN PROCEEDINGS IN SUBORDINATE COURTS (ACT XVIII OF 1879, SECTION 29).

Rules subject to proviso as to Mukhtars.

The following rules, framed by the Chief Court under Section 27 of Act XVIII of 1879, fix and regulate fees payable by any party in respect of the fees of his adversary's Advocate, Pleader, Vakil, Mukhtar or Attorney in proceedings in the Civil Courts subordinate to the Chief Court, subject to the following provisions as regards Mukhtars, that is to say—

(*a*) the fee payable for a Mukhtar shall not exceed half the fee payable for a Pleader.

(*b*) when a Mukhtar is employed in conjunction with an Advocate, Pleader, Vakil or, Attorney, the Court may, under special circumstances, allow an additional fee for the Mukhtar not exceeding in amount the fee which would have been payable if the Mukhtar had been employed alone; Provided that when an additional fee is allowed under this clause, the reasons for allowing such fee shall be recorded by the Judge with his own hand.

Double fee only in special cases.

2. The power given to the Courts to allow an additional fee, when a Mukhtar is employed in conjunction with Counsel, should only be exercised in very special cases.

RULES.

In suits for specific property, or breach of contract, or for damages.

In suits for the recovery of specific property, or a share of specific property, whether immoveable or moveable, or for the breach of any contract or for damages,—

If the amount or value of the property, debt or damages decreed shall not exceed Rupees 5,000, at 5 per cent. on the amount or value decreed;

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If the amount or value shall exceed Rupees 5,000, and not exceed Rupees 20,000, on Rupees 5,000 at 5 per cent., and on the remainder at 2 per cent.;

If the amount or value shall exceed Rupees 20,000 and not exceed Rupees 50,000 on Rupees 20,000 as above, and on the remainder at 1 per cent.;

If the amount or value shall exceed Rupees 50,000, on Rupees 50,000 as above, and on the remainder at ½ per cent.

Provided that in no case shall the amount of any fee exceed Rupees 3,000.

NOTE.—As some diversity of practice appears to exist on the subject, the Judges deem it necessary to point out that in suits for immoveable property Pleaders' fees should be calculated on the actual value of the subject-matter of the suit, as provided in Rule I, and not on the value as determined for the purposes of the Court Fees Act. No difficulty will arise in fixing the value of the subject-matter of the suit, as this already has to be done in almost all cases under Judicial Circular XXXIII in order to determine the question of jurisdiction, and the Pleader's fees should be calculated in accordance with the above rules on the value so determined.

In suits for injuries to person, character or property, &c.

2. In suits for injuries to the person or character of the plaintiff, such as suits for assault or defamation, or for injuries to property or to enforce rights where the pecuniary value of such injury or right cannot be exactly defined, as in suits for interference with a right to light or water, or to enforce a right of pre-emption, or suits for the partition of joint property, where partition is improperly resisted, if the plaintiffs succeed, the Court may order the fee allowed to the plaintiff to be calculated with reference either to the amount decreed, or according to the valuation of the suit, or according to such a sum, not exceeding the valuation, as the Court shall think reasonable, and shall fix with reference to the importance of the subject of dispute. In any such case the amount of the fee shall be calculated according to the scale in Rule 1.

If suit be dismissed, defendant's fee how calculated.

3. If the suit be dismissed for default, or upon the merits, or be decreed for the defendant, the fee allowed to the defendant shall be calculated according to the scale in Rule 1 on the whole value of the suit.

If suit be decreed in part, fees how to be fixed.

4. If the suit shall be decreed for the plaintiff as to part only of his claim, and as to the remainder shall be dismissed or decreed for the defendant, the fee allowed to each party shall be fixed with reference to the value of that part of the claim in respect of which he shall succeed, and shall be calculated according to the scale in Rule 1.

Defendant not entitled to fee in certain suits for damages.

5. If in any suit for damages, the plaintiff shall succeed as to the whole of his cause of action, but shall fail to recover the full amount of damages claimed, the defendant shall not be entitled to any allowance in respect of the difference between the amount of damages claimed and the amount recovered, unless the Court shall be of opinion that the amount claimed for damages was unreasonable or excessive, and shall for that or any other cause to be specified, direct that a fee shall be allowed to the defendant.

If specially allowed, the amount of such fee shall be fixed with reference to the amount of damages disallowed to the plaintiff and shall be calculated according to the scale in Rule 1.

If there are several defendants who have a joint interest.

6. If several defendants, who have a joint or common interest, succeed upon a joint defence, or upon separate defences substantially the same, not more than one fee shall be allowed, unless the Court shall otherwise order for a reason which shall be recorded. If only one fee be allowed, the Court shall direct to which of the defendants it shall be paid, or shall apportion it among the several defendants in such manner as the Court shall think fit.

If there are several defendants who have separate interests and separate Counsel.

7. If several defendants, who have separate interests, set up separate and distinct defences and succeed thereon, a fee for each of the defendants who shall appear by a separate Counsel may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated with reference to the value of the separate interest of such defendant according to the scale in Rule 1.

In miscellaneous proceedings.

8. The fee allowed in any miscellaneous proceedings, or for any matter other than that of appearing, acting, or pleading in a suit prior to decree, shall not exceed—

Rupees 80 in the Court of a Divisional or District Judge, or of an Officer exercising the powers of a Subordinate Judge, or of a Munsiff of the first class, or in a Small Cause Court:

Rupees 16 in the Court of an Officer exercising the powers of a Munsiff of the second or third class.

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In undefended suits.

9. In every suit in any Court of original jurisdiction which shall be undefended, the fee shall be calculated at one-half the sum at which it would have been charged had the suit been defended.

In reviews if former order upheld.

10. If a review be rejected after summoning the opposite party, or if, after the admission of a review, the former judgment be upheld, the fee, if allowed to the successful party in the review, shall be fixed by the Court at an amount which shall not in any case exceed one-half of the amount allowed by these rules in case of an original decree.

In reviews if former judgment revised.

11. If, after the admission of a review, the former judgment be revised, the fee in respect of the review, if allowed to the party who succeeds in the review, shall not exceed one-half the amount allowed by these rules in case of an original decree. The fee allowed in respect of the review will be irrespective of any fee which may be included in any costs in respect of the original suit which may be adjudged to the successful party by the judgment in review.

In appeals.

12. In appeals the fee shall be calculated on the same scale as in original suits, and the principles of the above rules as to original suits shall be applied, as nearly as may be, to appeals.

When interest of several appellants is joint.

13. When the interest of several appellants is joint, not more than one fee shall be allowed, unless the Court shall otherwise order for a reason to be recorded. If one fee only be allowed, the Court shall direct to which of the appellants it shall be paid, or shall apportion it among the several appellants in such proportions as it shall think fit.

If several respondents appear by separate Counsel.

14. If several respondents in one appeal appear by separate pleaders, in determining whether separate fees shall be allowed, the Court shall be guided by the principles laid down in Rules 6 and 7.

Court may exercise its discretion in allowing fee.

15. If in any instance the payment of fees according to the preceding rules shall not appear to the Court to be just and equitable, the Court may exercise its discretion in allowing such fee as may appear just and equitable; but, in every case, when a fee is allowed, the amount shall be calculated according to the scale in Rule 1, or according to Rule 8, as the case may be.

In cases remanded for retrial.

Provided that if the decree of a lower Court be reversed on appeal, and the case be remanded to the lower Court to be tried upon the merits, the lower Court on passing its decree may allow to the successful party such a sum as the Court shall consider to be reasonable, not exceeding half the amount calculated according to the scale in Rule 1, in respect of the re-hearing in addition to the full amount calculated according to that scale.

In appeals against decree passed on remand.

Provided also that, if an appeal be preferred against the decree passed on remand, the fee, if any, allowed by the Appellate Court to the party succeeding in that appeal, shall not, unless for a special reason to be recorded, be less than one-quarter, nor more than one-half, of the amount calculated at the rate mentioned in Rule 1, if by the decree of the Appellate Court remanding the case, the same party shall have been allowed a full fee in respect of the former appeal in the suit, either absolutely or conditionally upon his succeeding upon the remand.

In cases referred to lower Court for the trial of issues.

Provided also that, if an issue be framed and referred by the Appellate Court for trial by the lower Court, the Appellate Court may, if it think proper, allow to the party who shall succeed in the appeal such a sum as the Court shall consider reasonable, not exceeding half the amount calculated at the rate mentioned in Rule 1, in respect of the trial of the issue in the lower Court, in addition to a full fee in respect of the appeal calculated at that rate.

(*Judicial Circular No. CXXII*).

(*g*).—RULES TO REGULATE THE ADMISSION OF PERSONS TO BE REVENUE AGENTS, &C.

THE following rules under Sections 8, 17 and, 19 of Act XVIII of 1879, have been approved by the Local Government, and are issued in supersession of the rules contained in Book Circulars Nos. XX of 1866, X of 1877 and XVII of 1880.

2. The certificate granted to a Pleader of the first grade by the Chief Court, entitles him to practise in the office of the Financial Commissioner, and in all subordinate revenue offices: and the certificate granted to a Pleader of the second grade by the Chief Court, enables him to practise in all offices subordinate to the office of the Financial Commissioner. A Pleader, therefore, is not required to take out a fresh certificate as a Revenue Agent; it is only necessary for him to be enrolled in the office in which he desires to practise, or in some office to which it is subordinate. Mukhtars of the first grade may, on application to the Financial Commissioner, be granted certificates enabling them to appear as Revenue Agents in the office of the Financial Commissioner and in all subordinate offices.

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No Mukhtar of the second grade will in future be admitted as a Revenue Agent.

But no person who has been already admitted by the Financial Commissioner as a Revenue Agent, shall be debarred from having his certificate renewed because he is not a Mukhtar of the first grade.

3. Every Pleader and Revenue Agent, before he can legally practise or appear in a Revenue Court or office, must (1) hold a certificate issued by the Chief Court in the case of a Pleader or the Financial Commissioner in the case of a Revenue Agent, and (2) be enrolled in the office of the Financial Commissioner or in some office subordinate thereto under Section 8 or Section 19 of the Act. It should be remembered that no Pleader or Revenue Agent can practise in any particular revenue office, unless he has been enrolled in that office or in some office to which it is subordinate, and that, under the provisions of Sections 8 and 19, a Pleader or Revenue Agent cannot be enrolled in any revenue office not mentioned in his certificate. It will, therefore, be sufficient for Pleaders of the first grade, and Mukhtars of the first grade, who are also Revenue Agents, to enrol themselves in the office of the Financial Commissioner. Pleaders of the second grade and Mukhtars of the second grade, who are also Revenue Agents, must enrol themselves in as many of the offices subordinate to the office of the Financial Commissioner as may be necessary to meet the requirements of the law.

4. A register of Pleaders and Revenue Agents, enrolled under Act XVIII of 1879, shall be maintained in the office of every Commissioner and Deputy Commissioner. Separate pages should be allotted in the Register to each grade of Pleader and Revenue Agent.

5. Rule 9 provides that all final orders by which a Revenue Agent is suspended or dismissed, shall be notified in the *Punjab Gazette*. Rule XXIII of the rules issued by the Chief Court for the admission, &c., of Pleaders and Mukhtars, and published with the Court's Book Circular No. XVI of 1884, provides for the notification in the *Punjab Gazette* of any order of suspension or dismissal of a Pleader. On the publication of such a notification, if the order be one of suspension, a note of the period of suspension should be made in the registers of the various offices in which the person suspended is enrolled, or if the order be one of dismissal, the name of the person dismissed should be struck off the registers of such offices, and in either case the order should be communicated to all subordinate Courts.

6. A list of persons entitled to act as Revenue Agents in the Punjab will be published annually as soon after the 1st of January as possible. With a view to the compilation of this list, Deputy Commissioners and Commissioners should send to this office, not later than the 15th January, extracts from their registers referred to in Rule VI. These extracts should contain transcripts of all entries relating to Revenue Agents, whose enrolment was in force at any time either for the whole or any *part of the previous* calendar year. Columns 1, 2, 4 and 5 should be transcribed in full; of column 4 the last two entries only should be transcribed. Entries relating to Pleaders will be omitted. Reasons for non-renewal of certificate, such as death, or resignation of profession, should be noted in the column of remarks. The Financial Commissioner's list will be amended in accordance with these returns, and printed copies will be distributed to all Revenue Offices in the Punjab, with a supplementary list containing the names of the persons who have died or failed to renew their certificates since the last list was published. On the receipt of these lists, the names of persons who have died should be removed from any registers in which they may still be borne, and, in the case of persons who have not renewed their certificates, the fact should be noted in the various registers in which such persons are enrolled. Should any person who has been thus dealt with subsequently renew his certificate within the period of three years allowed by Rule VIII, the grant of a renewed certificate should be intimated to the various offices in which he is enrolled for the information of such offices and the offices subordinate to them, as well as to this office. If no application for a renewed certificate be made within three years, the name of the person should, at the expiration of that period, be struck off all the registers in which he is enrolled.

The father's name should be given in column 1 of Register of Pleaders, &c., Form 2, appended to the above Circular.

*Rules framed by the Financial Commissioner, Punjab, under Sections 8, 17 and 19 of Act XVIII of 1879, to regulate the qualification, admission, and certificates of proper persons to be Revenue Agents, the enrolment of Pleaders and Revenue Agents in the Revenue Courts and offices of the Punjab, the fees to be paid for the admission of Revenue Agents, the suspension and dismissal of Revenue Agents so admitted and enrolled, and to declare what shall be deemed to be their functions, powers and duties.*

Persons admissible to be Revenue Agents.

I. All persons who have been granted certificates by the Chief Court of the Punjab as Mukhtars of the first grade, may be admitted without further examination as Revenue Agents, at the discretion of the Financial Commissioner.

Application for admission.

II. Application to be admitted as a Revenue Agent, under the provisions of Act XVIII of 1879, shall be made by petition to the Financial Commissioner, and shall be presented by the applicant, in person, or by an Advocate, or by a Pleader or Revenue Agent practising in the Financial Commissioner's Court duly authorized in that behalf.

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III. The application shall be accompanied by evidence of the fact that the applicant has been admitted by the Chief Court as a Mukhtar of the first grade and by a fee of five rupees, or the Treasury Officer's receipt for the same, and if the applicant holds any appointment under Government or carries on any trade or other business at the time of his application, the fact shall be stated therein.

To be accompanied by evidence of qualification and a fee of five rupees.

IV. The application will then be considered by the Financial Commissioner, and if it be granted, one of the Secretaries to the Financial Commissioner shall give to the applicant a certificate in the form annexed to these rules on his furnishing the requisite stamp paper and a declaration in writing stating his ordinary place of business and the Revenue Courts and offices which he desires to be specified therein, and the Secretary shall thereupon notify his admission in the *Punjab Gazette*.

Admission and grant of certificate.

Provided that, if the certificate be not taken out within the year in which the applicant is admitted, it shall not be issued without a special order of the Financial Commissioner.

V. Application to be enrolled as a Pleader or Revenue Agent under the provisions of Section 8 or 19 of Act XVIII of 1879, shall be made by petition to the Officer in whose register applicant desires to be enrolled. The application shall be accompanied by the certificate referred to in Section 7 or 18, as the case may be, and shall be presented by the applicant in person or by an Advocate or by a Pleader or Revenue Agent practising in the office and duly authorized in that behalf.

Application for enrolment.

VI. The Officer to whom application is made having satisfied himself that the applicant is entitled to be enrolled, shall enter his name in his register of Pleaders or Revenue Agents, as the case may be, and shall endorse on the applicant's certificate a memorandum in the form given in the schedule annexed to these rules.

Enrolment.

VII. (1) Application for the renewal of a Revenue Agent's certificate shall be made by petition to the Financial Commissioner or, at the option of the applicant, to the Commissioner or Deputy Commissioner, at least two weeks before the expiry of the certificate, and shall be accompanied by the expiring certificate and by a declaration in writing stating the applicant's ordinary place of business and the offices which he desires to be specified therein. When the applicant desires to take out a certificate on a different stamp to that on which the certificate was previously issued to him, the declaration shall further state the grade of certificate required.

Renewal of certificates.

(2) The application shall be presented by the applicant in person, or in the event of his inability to attend in person, by an Advocate, or by a Pleader or Revenue Agent practising in the office, and duly authorized in that behalf.

(3) On the requisite stamp paper being supplied, a renewed certificate will be prepared and issued by one of the Secretaries to the Financial Commissioner, the Commissioner, or Deputy Commissioner, as the case may be, to the applicant, if he attend personally, or to the Advocate, Pleader, or Revenue Agent presenting the petition. On the renewed certificate will be endorsed the memorandum of enrolment recorded on the expiring certificate, and the endorsement will be authenticated by the renewing officer. When a certificate is renewed by a Commissioner or Deputy Commissioner, he shall forthwith notify such renewal to the Financial Commissioner and cancel and retain the superseded certificate in his office.

VIII. If any person having been admitted as a Revenue Agent, and having obtained a certificate as such, shall fail to renew it for a period of three years, he shall be suspended, and shall not be entitled to have his certificate renewed without a further order of the Financial Commissioner.

Failure to renew certificate for three years.

IX. All orders for the suspension or dismissal of a Revenue Agent passed by the Financial Commissioner under the authority vested in him by Sections 21 to 24 of Act XVIII of 1879, shall be notified in the *Gazette*, and if the Revenue Agent also holds a certificate as a Mukhtar, shall also be reported to the Chief Court for information.

Orders of suspension or dismissal to be notified in the *Gazette*.

X. Subject to the provisions of Section 10 of Act XVIII of 1879, any appearance, application or act required or authorized by law to be made or done in or to a Civil Court by the recognized agent of a party may be made or done by a duly appointed Revenue Agent in proceedings held in Revenue Courts pursuant to Chapter V of the Punjab Courts Act, 1884.

Functions, powers and duties of Revenue Agents in proceedings under the Punjab Courts Act.

Provided that a Revenue Agent shall not, except with the express permission of the Court, take any part in the examination of a party or witness; nor shall he, under any circumstances, be permitted to state the case of his principal or reply to the opposite party, or address any argument to the Court at any stage of the proceedings.

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Their functions, powers and duties in other proceedings before Revenue Officers.

XI. In proceedings under the Land Revenue Act, 1871, and in other proceedings before Revenue Officers not referred to in Rule X, Pleaders and Revenue Agents may present applications and do whatever may be done by a recognized agent, but no formal pleadings shall be heard, except in cases falling under one or other of the following heads:—

1. Appointments and dismissal of Lambardars and Zaildars.
2. Questions relating to the release and resumption of muafis.
3. Mutations.
4. Partitions of land.
5. Applications to set aside or reduce license-tax or income-tax assessments and appeals from orders passed on such applications.

The powers of Revenue Agents in all such cases are restricted in the manner described in the Proviso to Rule X.

Pleadings, &c., to be in the Urdu language.

XII. All proceedings and applications by legal practitioners authorised to appear in Revenue Courts and offices, shall be conducted and made in the Urdu language; unless both parties being themselves or through their Pleaders able and willing to plead in English, the presiding officer consents to their so pleading.

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SCHEDULE OF FORMS.

(1) *Form of Certificate referred to in Rule IV.*

Pursuant to the Legal Practitioners Act of 1879, I hereby certify that_____ _____whose ordinary place of business is at_____ _____ has been duly admitted by the Financial Commissioner of the Punjab as a Revenue Agent, and is entitled to practise as such, subject to the provisions of Section 19 of the Act above recited, up to the end of the current year in the Courts and offices specified below.

1. The Court of the Financial Commissioner and all Revenue Courts and offices subordinate to him.
2. The Court of the Commissioner and all Courts and offices subordinate to him.
3. The Court of the Deputy Commissioner and all Courts and offices subordinate to him.

Give under my hand and the seal of the Court this_____ _____day of _____188 .

(Signed)

*Junior Secy. to Finl. Commr., Punjab.*

(2) *Form of register referred to in Rule VI.*

Register of Pleaders and Revenue Agents enrolled under Act XVIII of 1879.

| 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|
| Name. | Date and description of original certificate. | Date of last renewal of the same. | Date of enrolment. | Remarks. |

(Column 2.—By description is meant whether as Pleader 1st or 2nd grade or as Revenue Agent).

(3) *Form of Memorandum of enrolment referred to in Rule VI.*

Enrolled in the Court of the_____of_____as _____ _____on the_____ _____of_____ _____188

(Signed).

*Deputy Commissioner,*
*or Commissioner,*
*or Secretary to the Finl. Commr.*

***(Financial Commissioner's Circular No. 5 of 1886, as amended by No. 27 of 1887).***

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# ACT No. XX of 1879.

(*Passed on the 14th November 1879*).

An Act to provide for the better prevention of Glanders and Farcy among Horses.

Preamble.

Whereas it is expedient to provide for the better prevention of glanders and farcy among horses; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Glanders and Farcy Act, 1879";

Local extent.

It extends to the whole of British India, except the territories respectively administered by the Governor of Fort St. George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal;

Commencement.

and it shall come into force at once.

Interpretation-clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"horse":

"horse" includes also ponies, asses, mules, and jennets:

"diseased."

"diseased" means affected with glanders or farcy.

Local Government may apply the Act.

3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

NOTE.—Under S. 3 of Act XX of 1879 (the Glanders and Fancy Act, 1879) the Hon'ble the Lieutenant-Governor is pleased to extend the provisions of that Act, and also of the rules * framed thereunder and published in *Punjab Government Gazette* Notification No. 3598, dated 12th November 1880, to the whole of the Punjab.—(*Punjab Government Notification No.* 657, *dated* 21*st March* 1883, *Punjab Gazette of* 22*nd idem*).

Local Government to appoint Inspectors.

4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette, appoint either by name or by virtue of their office such persons as it thinks fit to be Inspectors under this Act, and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code.

NOTE.—Under the provisions of Section 4 of Act XX of 1879 (The Glanders and Farcy Act, 1879), the Hon'ble the Lieutenant-Governor is pleased to appoint the Senior Veterinary Surgeon at Ráwalpindi to exercise and perform, within the limits of the Military Cantonment and Municipality of Ráwalpindi, and within a distance of three miles from the outer boundary thereof, the powers conferred and the duties imposed by the Act on Inspectors; and also to perform the duties of Veterinary Surgeon for the purposes of Sections 7 and 8 of the same Act. (*Punjab Government No.* 1497, *dated* 10*th August* 1887, *Punjab Gazette of* 11*th idem, Part I, p.* 480).

Inspector's power to seize horse.

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

* Printed at the end of this Act.

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Power of entry and search given to Inspectors.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building, or other place where he has reason to believe that any such horse is to be found.

Horse to be examined by Veterinary Surgeon.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Surgeon as the Local Government may from time to time appoint in this behalf.

Horse to be destroyed if found diseased; otherwise restored.

8. If such Surgeon certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but if such Surgeon does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

When horse diseased, place where it has been to be disinfected, &c.

9. When any diseased horse has been in any building, shed, or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place, or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may from time to time by rule prescribe, destroyed.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed, place, or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.

Owner or person in charge of diseased horse to give notice.

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of Police.

Prohibition against removal, without license, of horse which has been with diseased horse.

11. No person in charge of any horse which has been in the same field, building or place, or in contact with a diseased horse, shall move such horse, except in good faith for the purpose of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

Vexatious entries, searches and seizures.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building, or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Penalty for refusing to comply with notice under Section 9; or moving horse contrary to Section 11.

13. Any person who refuses or neglects to comply with any notice issued by the Inspector under section nine, or who moves any horse in contravention of section eleven, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

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Power to make rules.

14. The Local Government may from time to time make rules, consistent with this Act,—

(*a*) for regulating entries and searches by Inspectors under this Act;

(*b*) for regulating the destruction of horses certified under section eight to be diseased and the disposal of the carcases of such horses;

(*c*) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed;

(*d*) for regulating the grant of licenses under section eleven, and the conditions on which such licenses shall be granted; and

(*e*) generally for carrying out the purposes of this Act.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Validation of destruction of diseased horses previous to passing of this Act.

15. All diseased horses destroyed under the orders of the Governor-General in Council or the Local Government in the districts of Rawalpindi and Peshawar, previous to the passing of this Act, shall be deemed to have been destroyed in accordance with law.

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NOTE.—Under the authority vested in him by Section 14 of Act XX of 1879 (The Glanders and Farcy Act, 1879) the Hon'ble the Lieutenant-Governor is pleased to make the following rules under the said Act, to have effect in the districts of Jhelum, Rawalpindi, Peshawar, and Kohat :—

RULE 1.—Every Inspector who receives information of the supposed existence, or who has reasonable grounds to suspect the existence, of glanders or farcy, in any place within the districts to which this Act has been extended, shall proceed immediately to such place and there execute and discharge the powers and duties conferred and imposed upon him under this Act.

RULE 2.—An Inspector may, for the purpose of seizing any such horse, enter and search any field, enclosure, building, or other place where he has reason to believe that any diseased horse is to be found, but as far as practicable he shall conduct his search in the presence of the owner or of the person in charge of the suspected horse, field, enclosure or building, to whom notice shall be given previous to the search.

RULE 3.—Every person having in his possession or under his charge any diseased horse shall observe the following rules :—

1st.—He shall, as far as possible keep the diseased horse separate from other horses note diseased.

2nd.—He shall give information of the fact of the disease, as soon as possible, to the nearest Police Station, and the officer in charge of the Station shall forthwith report the same to the District Superintendent of Police, who shall communicate it directly to the Inspector.

RULE 4.—When a diseased horse is destroyed under Section 8 of the Act, the owner, or the person in charge, shall cause the carcass to be buried, without delay, 6 feet below the surface of the ground, and the skin shall be slashed so as to prevent it being used. No person shall dig up, or cause to be dug up, the carcass of any horse so buried, or any part of it.

RULE 5.—When a diseased horse has been destroyed or has died of the disease, the Inspector may order that its dung, and any hay, straw, litter, or other things commonly used for food or bedding of horses, shall be destroyed, by burying, or burning, or in some other way as he may direct, and the owner or the person in charge of the building, shed, place, or lines in which such diseased horse has been located, shall be bound to execute such order without delay.

RULE 6.—The stable or building in which a diseased horse has been, shall be cleansed and disinfected in the following manner :—

1st.—By sweeping out and removing all dung, litter, and other matter.

2nd.—By thoroughly washing all wood work with boiling water.

3rd.—By application to all parts above the floor with which the horse or its droppings may have come into contact, of a coating of lime-wash made by mixing, immediately before its use, good freshly burnt lime with water.

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4th.— By removal, if practicable, of 2 feet of earth from the floor or standings which shall not be renewed for at least two weeks.

The owner or person in charge of the stable or building shall be responsible for carrying out the measures indicated.

RULE 7.—The Inspector shall grant a license for removal of a horse which has been in contact with a diseased horse, only when he considers that there is no danger of the first horse becoming diseased.

If any horse which has been in such contact is removed without such license, the Inspector may require it to be taken back within the limits of the place from which it has been removed.

RULE 8.—Any person convicted of breaking any of the above rules, shall be punished with imprisonment, which may extend to one month, or with fine, which may extend to Rs. 50 or with both.

(*Punjab Government Notification No.* 3598, *dated* 12*th November* 1880, *Punjab Gazette of* 18*th idem*).

The above rules have now been extended to the whole of the Punjab.—(*Punjab Government Notification No.* 657 *dated* 21*st March* 1883, *Punjab Gazette of* 22*nd idem*).

## ACT No. XXI of 1879.

(*Passed on the* 14*th November* 1879).

An Act to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

Preamble.

Whereas by treaty, capitulation, agreement, grant, usage, sufferance, and other lawful means, the Governor-General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have, from time to time, been delegated to Political Agents and others acting under the authority of the Governor-General in Council; and whereas doubts having arisen how far the exercise of such power and jurisdiction, and the delegation thereof, were controlled by and dependent on the laws of British India, the Foreign Jurisdiction and Extradition Act, 1872, was passed to remove such doubts, and also to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond the limits of British India, and to the extradition of criminals; and whereas it is expedient to repeal that Act, and re-enact it with the amendments hereinafter appearing; It is hereby enacted as follows:—

### CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Foreign Jurisdiction and Extradition Act, 1879":

Extent.

It extends to the whole of British India;

to all Native Indian subjects of Her Majesty beyond the limits of British India; and

to all European British subjects within the dominions of Princes and States in India in alliance with Her Majesty;

Commencement.

and it shall come into force on the passing thereof.

Saving of other laws and of treaties.

But nothing contained in this Act shall affect the provisions of any law or treaty for the time being in force as to the extradition of offenders; and the procedure provided by any such law or treaty shall be followed in every case to which it applies.

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Repeal.

2. The Foreign Jurisdiction and Extradition Act, 1872, is repealed, but all existing appointments, delegations, certificates, requisitions, and rules made, and all existing notifications, summonses, warrants, orders, and directions issued, under that Act, shall, in so far as they are consistent herewith, be deemed to have been respectively made and issued hereunder.

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context,—

"Political Agent" means and includes—

(1) the principal officer representing the British Indian Government in any territory or place beyond the limits of British India;

(2) any officer in British India appointed by the Governor-General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India; and

"European British subject" means a European British subject as defined in the Code of Criminal Procedure.

## CHAPTER II.

### Powers of British Officers in places beyond British India.

Exercise of powers of Governor-General in places beyond British India, and delegation thereof.

4. The Governor-General in Council may exercise any power or jurisdiction which he for the time being has within any country or place beyond the limits of British India, and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as the Governor-General in Council from time to time thinks fit.

Notification of exercise or delegation of such powers.

5. A notification in the *Gazette of India* of the exercise by the Governor-General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof of the truth of the matters stated in the notification.

Note.—The notifications under this Chapter are collected at the end of the Act.

Appointment, powers, and jurisdiction of Justices of the Peace.

6. The Governor-General in Council may appoint any European British subject, either by name or by virtue of his office, in any such country or place to be a Justice of the Peace; and every such Justice of the Peace shall have in proceedings against European British subjects, or persons accused of having committed offences conjointly with such subjects, all the powers conferred by the Code of Criminal Procedure on Magistrates of the first class who are Justices of the Peace and European British subjects.

The Governor-General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial.

Confirmation of existing Political Agents and Justices.

7. All Political Agents and all Justices of the Peace appointed before the twenty-fifth day of April, 1872, by the Governor-General in Council or the Governor in Council of the Presidency of Fort St. George or

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Bombay, in or for any such country or place as aforesaid, shall be deemed to be and to have been appointed and to have had jurisdiction, under the provisions of this Act.

Extension of criminal law of British India to British subjects out of British India.

8. The law relating to offences and to criminal procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor-General in Council from time to time directs, extend—

(*a*) to all European British subjects in the dominions of Princes and States in India in alliance with Her Majesty; and

(*b*) to all Native Indian subjects of Her Majesty in any place beyond the limits of British India.

## CHAPTER III.

### Inquiries in British India into Crimes committed by British Subjects in Places beyond British India.

9. 10. *Repealed by Act X of* 1882.

## CHAPTER IV.

### Extradition.

Arrest and removal of persons other than European British subjects escaping into British India.

11. When an offence has been committed, or is supposed to have been committed in any State against the law of such State by a person not being a European British subject, and such person escapes into or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery at a place and to a person to be named in the warrant—

if such Political Agent thinks that the offence is one which ought to be inquired into in such State;

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the schedule hereto annexed, or under any other section of the said Code, or any other law, which may, from time to time, be specified by the Governor-General in Council by a notification in the *Gazette of India.*

Note.—Under the corresponding section of Act XI of 1872, the Governor-General in Council has notified that the provisions of Section 19 of Act V of 1871, shall apply to offences against any of the sections of the Indian Penal Code mentioned in Schedule II of that Act.—(*Notification No.* 188, *dated 12th August* 1872—*Punjab Gazette of 22nd idem*).

Direction and execution of warrant.

12. Such warrant may be directed to the Magistrate of any district in which the accused person is believed to be, and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants; and the accused person, when arrested, shall be forwarded to the place and delivered to the officer named in the warrant.

Political Agent may himself dispose of case, or make over person to ordinary Courts for trial.

13. Such Political Agent may either dispose of the case himself, or, if he is generally or specially directed to do so by the Governor-General in Council, or by the Governor of the Presidency of Fort St. George in Council, or by the Governor of the Presidency of Bombay in

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Council, may give over the person so forwarded, whether he be a Native Indian subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed.

Requisitions for extradition by the Executive of any part of British dominions or Foreign power.

14. Whenever a requisition is made to the Governor-General in Council or any Local Government by or by the authority of the persons for the time being administering the executive government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or territory should be given up, the Governor-General in Council or such Local Government, as the case may be, may issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been committed within the local limits of his jurisdiction, directing him to inquire into the truth of such accusation.

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue; and shall inquire into the truth of such accusation, and shall report thereon to the Government by which he was directed to hold the said inquiry. If upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and removal of such accused person and for his delivery at a place and to a person to be named in the warrant.

The provisions of section ten shall apply to inquiries held under this section.

Magistrate may in certain cases issue warrant for arrest of person accused of having committed an offence out of British India.

15. Whenever any person accused or suspected of having committed an offence out of British India is within the local limits of the jurisdiction of a Magistrate in British India, and it appears to such Magistrate that the Political Agent for any State could, under the provisions of section eleven, issue a warrant for the arrest of such person, or that the persons for the time being administering the executive government of any part of the dominions of Her Majesty or the territory of any Foreign Prince or State could demand his surrender, such Magistrate may, if he think fit, issue a warrant for the arrest of such person, on such information or complaint and such evidence as would, in his opinion, justify the issue of such a warrant if the offence had been committed within the local limits of his jurisdiction.

Magistrate to inform Political Agent or Local Government.

Any Magistrate issuing a warrant under this section shall, when the offence appears or is alleged to have been committed in a State for which there is a Political Agent, send immediate information of his proceedings to such Agent, and in other cases shall at once report his proceedings to the Local Government.

Person arrested to be released after certain time if not proceeded against.

16. No person arrested on a warrant issued by a Magistrate under section fifteen shall be detained more than two months from the date of his arrest, unless within such period the Magistrate receives a warrant under section eleven from the Political Agent for any State for the delivery of such person, or an order with reference to him under section fourteen from the Governor-General in Council or Local Government, or such person is in accordance with law delivered up to some Foreign Prince or State.

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At any time before the receipt of such a warrant or order, the Magistrate, if he thinks fit, may, and the Magistrate if so directed by the Local Government shall, discharge the accused person.

Bail.

17. The provisions of the Code of Criminal Procedure in respect of bail shall apply in the case of any person arrested under section fifteen in the same manner as if such person were accused of committing in British India the offence with which he is charged.

## CHAPTER V.

### MISCELLANEOUS.

Power to make rules.

18. The Governor-General in Council may, from time to time, make rules to provide for—

(1) the confinement, diet, and prison discipline of British subjects European or Native, imprisoned by Political Agents under this Act;

(2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them; and

(3) generally to carry out the purposes of this Act.

NOTE.—The Rules are given below.

Execution of commissions issued by Foreign Criminal Courts.

19. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in the territory of any Foreign Prince or State in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, Chapter XXV, and the provisions of that chapter shall be construed as if the term "suit" included a proceeding against a criminal; Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

## THE SCHEDULE.

SECTIONS OF THE INDIAN PENAL CODE REFERRED TO IN SECTION ELEVEN.

Sections 206, 208 and 224; sections 230 to 263, both inclusive; sections 299 to 304, both inclusive; sections 307, 310 and 311; sections 312 to 317, both inclusive; sections 323 to 333, both inclusive; sections 347 and 348; sections 360 to 373, both inclusive; sections 375 to 377, both inclusive; sections 378 to 414, both inclusive; sections 435 to 440, both inclusive; sections 443 to 446, both inclusive; sections 464 to 468, both inclusive; sections 471 to 477, both inclusive.

Rules and Notifications published under Act XXI of 1879.

NOTES.—A.—The following Rules, Notifications, &c., have been issued with regard to the extradition of criminals and foreign jurisdiction. Such of them as were issued under Act XI of 1872 retain their force under Section 2 of Act XXI of 1879.

(a).—*Rules &c. under Act XXI of* 1879 (*the Foreign Jurisdiction and Extradition Act*).

Letter (No. 56J., dated 6th May 1875, from Secretary to Government of India, Foreign Department, to Secretary to Government, Punjab, as amended by No. 59J., dated 16th August 1876).

With reference to the correspondence ending with your letter No. 1379, dated 11th August 1874, I am directed to forward, for the information and guidance of the officers subordinate to the Government of the Punjab, the enclosed copy of a Notification No. 13 J., dated the 12th March 1875, published in the *Gazette of India*, containing rules framed by the Governor-General in Council under Section 15 of Act XI of 1872, "The Foreign Jurisdiction and Extradition Act, 1872."

2. The Governor-General in Council desires that special attention be drawn to Section 18 of the Act. It must be distinctly borne in mind that, subject as to procedure to such modifications as the Governor-General in Council from time to time directs, all trials held by a Political Agent must be held in conformity to the law and criminal procedure of British India as far as applicable.

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3. Attention should also be drawn to Sections 12 and 14 of the Act. When a prisoner has been arrested under a Political Agent's warrant (Section 12), or under a warrant issued under Section 14 by the Governor-General in Council or any Local Government, bail cannot be taken, and the person arrested must be removed in custody and delivered up at the place and to the person named in the warrant.

4. With reference to rule 12, I am to observe that if the persons sentenced to imprisonment by the Political Agent be not British subjects, they should be made over to the Native State for confinement in the local jail, provided the Political Agent is satisfied that the local jail is a suitable place for their confinement; but if the Political Agent considers that the local jail is not a suitable place for the confinement of the prisoners, or if there be other reasons rendering it inexpedient to confine the prisoners there, they should be dealt with in the same way as British subjects are dealt with under rule 12.

5. When a person, not a British subject, is sent to a British jail under the instructions contained in the preceding paragraph, the expense of his confinement in jail should, if practicable, be recovered from the Native State.

6. It is of course optional to the Chiefs of Native States, with whom treaties of extradition exist, to abide by the provisions of such treaties if they prefer them to the procedure in these rules.

7. With reference to paragraph 2 of your letter of 11th August, I am to observe that in the exercise of the discretion conferred by Section 14 of Act XI of 1872, the Lieutenant Governor can be guided by the rules* referred to when a State is concerned in respect to which it has been the practice to observe them.

NOTIFICATION.—*No.* 31*J.*, *dated* 12*th March* 1875.

(*As amended by Notification No.* 87*J.*, *dated* 16*th August* 1876).

In exercise of the powers conferred on him by Sections 13 and 15 of Act XI of 1872 and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to make the following rules :—

1. The Political Agent shall not issue a warrant under Section 11 of the Act in any case which is provided for by treaty, if the Native State expressly desires to abide by the procedure of the treaty; nor in any case in which application for surrender is made under Section 14 to the Governor-General in Council or any Local Government.

2. The Political Agent shall not issue a warrant under Section 11, except on a request preferred to him in writing by, or by the authority of the person for the time being administering the executive Government of the Native State at which he is the British representative, and on the understanding that the provisions of Act XI of 1872 and of these rules are to apply to the case.

3. If the accused be a British subject, the Political Agent shall, before issuing such a warrant, consider whether he ought not to certify the case as one for trial in British India; and he shall, instead of issuing a warrant, so certify the case, if he is satisfied that the interests of justice and the convenience of witnesses can be better served by the trial being held in British India than in the Native State.

4. The Political Agent shall in all cases, before issuing a warrant under Section 11, satisfy himself by preliminary enquiry that there is a *primâ facie* case against the accused, and that the charge is not prompted by political motives.

5. If the person surrendered under the warrant of a Political Agent, issued under Section 11, be not a British subject; or if such person being a British subject, the Courts of the State, either by custom or by the express recognition of the Governor-General in Council, try native British subjects surrendered to them by extradition, and the Political Agent, after hearing the statement, if any, of the accused, and making such further inquiry as he may deem necessary, is satisfied that there is a *primâ facie* case against the accused, and that the charge is not prompted by political motives, the Political Agent shall make over the accused to be tried by the ordinary Courts of the State in which the offence was committed; provided that the Courts of the State have, by custom or recognition as aforesaid, power to inflict the punishment which may be inflicted under the Indian Penal Code for the offence with which the accused person is charged.

6. If the accused be a British subject, but the Courts of the State do not by custom or recognition as aforesaid try Native British subjects, the Political Agent shall dispose of the case himself.

7. If the punishment which may be awarded under the Indian Penal Code for any offence for which an accused person has been surrendered as above be more than the Courts of the State by custom or recognition as aforesaid inflict, the Political Agent may try the case himself, if he thinks it advisable to do so.

8. Notwithstanding anything in the three preceding rules, the Political Agent shall try any such case himself or make it over for trial by the ordinary Courts of the State, if he be generally or specially instructed by the Governor-General in Council so to do.

* The rules here referred to are those printed in part (*c*) of this Circular.

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9. In cases made over for trial by the Courts of a Native State under rules 5 and 7, the Political Agent shall satisfy himself that the accused receives a fair trial, and that the punishment inflicted in the case of his conviction is not excessive or barbarous; and if he is not so satisfied, he shall demand the restoration of the prisoner to his custody, pending the orders of Government.

10. A return of all persons made over for trial by the Courts of a Native State under rules 5 and 7 shall be submitted half-yearly by the Political Agent to the Government of India or the Government of Madras or Bombay, as the case may be, in the following form:—

*Half-yearly return, under rule 9 of the rules under the Extradition Act (XI) of 1872, of persons made over by the Political Agent at for trial by the Courts of Native States under rules 5 and 7, for the period ending*

| Number. | Name of person. | Nationality. | Offence with which charged. | Where arrested. | Date of surrender. | Native State to which surrendered for trial. | Reasons for surrender. | Nature of sentence passed, with date of sentence. | REMARKS. |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

11. Persons arrested in British territory on a warrant issued by a Political Agent under Section 14, and persons arrested on a warrant issued under Section 14, shall be treated, as far as possible, in the same way as persons under trial for a similar offence would be treated under the Code of Criminal Procedure, or under the procedure in force in the Presidency towns, if the arrest take place within any Presidency town.

12. Persons sentenced to imprisonment by the Political Agent shall, if British subjects, be conveyed to the most convenient jail in British territory, there to be dealt with as though the conviction had taken place in a Court of British India; provided always that no appeal shall thereby be given other than is allowed by any rules for regulating appeals from the decisions of the Political Agent.

13. Nothing in rules 5 to 10 inclusive, which refer to cases under Section 13 of the said Act, shall be deemed to apply to Political Agents immediately under the authority of the Governor in Council of the Presidency of Fort St. George or the Governor in Council of the Presidency of Bombay.

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By Foreign Department Notification No. 149J., dated 8th October 1875, the Government of India have directed that the above rules shall not apply to Native territory under the direct administration of the British Government, in which the Code of Criminal Procedure is in force.

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The following extracts, which were forwarded to all Commissioners in the Punjab for information with Punjab Government, Political Department, Circular No. 41—789, dated 7th July 1870, indicate under what circumstances the Court of Vakils of each Agency will be considered the Court of the Political Agent.

*Extract from a letter from the Agent to the Governor-General in Rajputana, No. 49J., dated the 12th April 1870.*

*Para.* 8. There is another subject connected with the Code which I submit for consideration. In Article III of the treaties which have been lately negotiated with the States of Rajputana for the extradition of offenders, it is stated that, "as a general rule, such cases will be tried by the Court of the Political Agent, in whom the political supervision of the State may be invested." A case has arisen in which a Political Agent desired the rendition of an offender under this article of the treaty for trial before the Court of Vakils over which he presided. The Magistrate objected that this Court was nowhere alluded to by Government, or acknowledged in the treaties.

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9. It is obviously good policy to encourage and promote the action of these Courts. Their extension indeed, in my opinion, is the one hope that exists that the Native States will be able to maintain their separate jurisdiction in the midst of our empire. A perusal of the Code now submitted will, I think, convince His Excellency in Council that the measure of supervision exercised by British Officers is sufficient to secure a rude justice adapted to the state of the country, and I believe it might safely be ruled that the Court of Vakils of each agency should be considered the Court of the Political Agent, as regards the extradition treaties in all cases where he presides personally.

*Extract from a letter to the Agent to the Governor-General in Rajputana No. 87J., under date the 6th June 1870.*

Courts of Vakils, when the Political Officer presides in person, may, in the opinion of the Governor-General in Council in this department, be considered to be Courts of the Political Officer referred to in Article III of the extradition treaties concluded with various States in Rajputana. The papers will be communicated to the Home Department of the Government of India, with a view to the necessary communications on the subject being made to the Local Administrations, on whose officers it is to be anticipated that demands for the surrender of offenders may be made under those treaties.

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The annexed copy of a letter (No. 2682 (I), dated 13th August 1885), from the Government of India, appointing certain Officers to be Political Agents for the purposes of Chapters IV and V, Act XXI of 1879, is circulated for the information and guidance of all Criminal Courts.

*Copy of a letter No. 2682 (I), dated Simla, the 13th August 1885, from the Junior Under Secretary to Government of India, Foreign Department, to the Secretary to the Government of the Punjab.*

I AM directed to acknowledge the receipt of your letter No. 218 of the 25th April 1885, forwarding a list of the Officers whom His Honor the Lieutenant-Governor desires to appoint as Political Agents for certain Native States in the Punjab.

2. In reply, I am to say that the Governor-General in Council is pleased, in accordance with His Honor's recommendation, to appoint, under the provisions of Section 3 of Act XXI of 1879 (The Foreign Jurisdiction and Extradition Act), and for the purposes of Chapters IV and V of the Act, the Officers named in the first column of the accompanying list to be Political Agents for the Native States specified in the second column of that list.

3. With reference to the provisions of Section 13 of the Act, the Governor-General in Council is further pleased to direct that for offences committed in any of these States the persons accused shall be handed over by the Political Agent concerned to the Courts of the State for trial. But this direction is, I am to add, subject to the instructions contained in the notifications published in the *Gazette of India*, No. 87J., dated the 16th August 1876, and to the further condition that, should there be, in any particular instance, special reasons for his so doing, the Political Agent may dispose of the case himself.

*List referred to in the letter from Government, Punjab, to Government of India, Foreign Department, No. 218, dated 25th April 1885.*

| Officer. | Political Agent for |
|---|---|
| Commissioner, Delhi Division ... ... | Patiála.<br>Jhind.<br>Nábha.<br>Maler Kotla.<br>Kalsia.<br>Dujána.<br>Pataudi and Lohára. |
| Commissioner, Lahore Division ... ... | Baháwalpur.<br>Chamba. |
| Commissioner, Jullundur Division ... | Faridkot.<br>Mandí.<br>Suket. |
| Superintendent, Hill States ... ... | Sirmúr (Náhan).<br>Kahlúr (Bilaspur).<br>Bashahr.<br>Nálágrah.<br>Keonthal.<br>Bághal.<br>Baghat. |

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| Officer. | Political Agent for |
|---|---|
| Superintendent, Hill States ... ... | Jubbal.<br>Kumhársain.<br>Bhajji.<br>Mailog.<br>Balsan.<br>Dhámi.<br>Kuthar.<br>Kunhiár.<br>Mangal.<br>Bija.<br>Darkuti.<br>Taroch.<br>Sángri. |

Despatch of the Court of Directors of 1836.

2. In the *sanads* granted by the Viceroy and Governor-General of India, on the 5th May 1860, to the Maharaja of Patiala, and to the Rajas of Jhind and Nabha, and on the 21st April 1863, to the Raja of Faridkot, it was prescribed that, "*with regard to British subjects committing crime and apprehended in*" their respective territories, they should be guided "by the rules contained in the despatch of the Honorable the Court of Directors to the Madras Government, No. 3, dated 1st June 1836." The rules thus laid down for their guidance are the 2nd and 4th of those contained in the despatch printed below (*b*).

Orders of Chief Commissioner of 1856.

3. The vernacular proceeding of the Chief Commissioner, dated 28th May 1856, of which a translation is printed below (*c*), lays down more detailed rules on the same subject with special reference to the State of Jammu. The rules themselves appear to have been intended merely to embody the spirit of Act I of 1849 and Act VII of 1854,—(Vide *Barkley's Non-Regulation Law of the Punjab, page* 69). Both of these Acts were repealed by Act XI of 1872, which provides "for the trial of offences committed in places beyond British India and for the extradition of offenders," and in future the procedure in such cases must be in accordance with the provisions of the Act now in force. Section 14 of Act XI of 1872, however, contained a saving clause that it "shall not affect the provisions of any law or treaty for the time being in force, as to the extradition of offenders, but the procedure provided by any such law or treaty shall be followed in every case to which it applies." It has, therefore, been deemed advisable to republish the rules with this explanation, as Criminal Courts may have occasionally to refer to some of them. The rules have not been embodied in the *sanads* printed in *Aitchison's Treaties* at pp. 294, 301, 306, and Appendix 438, Vol. II.*

Regulations, &c. collected.

4. Under (*d*) and (*e*) are collected certain Regulations and Notifications regarding the exercise of powers by British officers in Kashmir and other territories.

(*b*).—*Rules for the extradition of criminals issued by the Hon'ble the Court of Directors in a despatch No.* 3 *of* 1*st June* 1836, *to the Government of Madras.*

62. The views which you adopted upon the question of international law referred by the local officers for your instructions, and by you for the decision of the Government of India, are entirely conformable, not only to the provisions of Regulation II of 1829, but also to expediency and the ends of justice. The several rules on the subject may be classed under the following heads, *viz* :—

19. Application to the Toudinian Government for the delivery to the Magistrate of Trichinopoly of a native subject of the British Government, to take his trial under the provisions of Regulation II, 1829, charged with the commission of crime within that territory.

20. Amenability of the subjects of foreign native States to the British Courts for crimes &c., committed within the British territories.

1*st*.—British subjects apprehended in the British territory on any charge of offences committed within the possession of any native Prince are amenable only to British tribunals.

* Since the above was printed the legality of these orders of the Chief Commissioner has been challenged in a judicial proceeding before the Chief Court, and Government has decided that the procedure under them must be abandoned in favour of the provisions of the Extradition Act (see Appendix No. VII).

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*2nd.*—British subjects apprehended in the territory within which the offence is alleged to have been committed are amenable to the jurisdiction of the tribunals established there.

*3rd.*—The subjects of Native States, wherever apprehended, are always amenable to the British Courts for crimes and heinous offences committed within the British territory.

*4th.*—British subjects charged with heinous crimes committed within the British territory, who may have taken refuge within the territory of a Native State, are to be delivered up to justice ; and *vice versâ*, with respect to the subjects of a Native State.

63. The want of reciprocity exhibited in the 1st and 3rd of these rules is justifiable not less according to your expression as " a proper prerogative of the paramount power," than on the ground of the inequality in the state of civilization and of jurisprudence under the British Government and that of Native States. The 2nd rule, under which British subjects, apprehended in the territory within which the alleged offence was committed, are amenable to the tribunals established there, seems necessary, with a view of guarding against the plea of being a British subject, which every person accused might otherwise set up. Indeed, the opposite rule would not admit of being enforced in favor of British subjects. We observe that the Government of India did not advert to this rule in their reply to your reference.

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(c).—*Translation of a vernacular proceeding of the Chief Commissioner, dated 28th May* 1856, *regarding the surrender of offenders accused of heinous crimes, being subjects of a foreign State apprehended in British territory, and vice versâ, published for general information in the* PUNJAB GAZETTE *of the 25th December* 1858, *page* 387.*

" Read a petition of Diwan Joàla Sahâi, Prime Minister to Maharaja Gulab Singh, Bahadur, Ruler of Jammu, dated 8th April last, relative to the demand and surrender, on both sides (British and Jammu Governments), of persons accused of crimes as before, detailing the character of crimes, and soliciting suitable orders.

" It is desirable that the same rules which are in force in accordance with the orders of Government in respect to the demand and surrender of offenders accused of heinous crimes between the British Government and the foreign States, should be made applicable to this State (Jammu), so that the rule in this respect with regard to all the foreign States may be *uniform*.

" After examination of the office record a list of heinous crimes, for which parties committing them may be demanded or surrendered by either State in accordance with the undermentioned rules, is given below :—

1. *Abduction* of a female, whether married or unmarried, without her consent, attended with tumult.
2. *Affray.*
3. *Arson or Incendiarism.*
4. *Assault*, attended with violence and wounding or the shedding of blood.
5. *Burglary.*
6. *Counterfeiting coin.*
7. *Child stealing.*
8. *Dacoity.*
9. *Forgery.*
10. *Homicide.*
11. *Convicts* (under sentence for any of the crimes included in this category) escaped from prison.
12. *Murder.*
13. *Administering poison.*
14. *Perjury*
15. *Rape.*
16. *Highway robbery.*
17. *Selling females.*
18. *Thuggee.*
19. *Theft exceeding* 50 *rupees in value.*
20. *Cattle theft.*

" Except the 20 classes of crimes above enumerated, persons accused of petty theft under 50 rupees value, or fornication, or petty assault, or defaulters of revenue, or debtors in a civil

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case, and the like, will not be liable to be demanded or surrendered on the part of either Government. In such cases the plaintiff, being a resident of Jammu territory, will have the option of prosecuting his claim either in British Courts or in the Courts of the Jammu Government. In the latter case, on the original proceedings of enquiry being forwarded by the Chief to the British Court, the claim of the prosecutor will be satisfied on its being substantiated in accordance with the established usage of the Court.

"*Rules for the apprehension, demand and surrender of persons charged with heinous crimes as enumerated above.*

"*Firstly.*—Any person being a British subject, having committed any crime of the class above enumerated in Jammu territory, if apprehended in that territory, will be punishable by the Government of the country. And in like manner any subject of the Jammu Government, if apprehended in British territory for a crime committed in that territory, will be punishable by British Courts.

"But the Maharaja may (if he so choose) forward a subject of the British Government so circumstanced to a British Court for trial and punishment.

"*Secondly.*—If a subject of the Jammu State should commit any crime of the classes enumerated above within British territory, or a subject of the British Government commit a crime in Jammu territory, and if the party after commiting such a crime should escape to his home, then the British subject having committed crime in the Jammu territory, if found in British territory, will not be liable to be demanded by the Jammu Government. The Maharaja will, however, be at liberty so prosecute the party through his servants in a British Court, which will award due punishment if the charge shall be proved after enquiry.

"But the Jammu subject, who shall have escaped to that territory, and be traced there, after having committed crime in British territory, will be liable to be sent to British Courts on being demanded by the British authorities.

"*Thirdly.*—Subjects of either State who should escape into foreign territory, after having committed any of the crimes above classified in their own territory, will be liable to be surrendered on being demanded by either Government. Provided, however, that on demand being made upon the British Government for the surrender of an offender of this class by the Maharaja, if the party accused shall have been residing in British territory for a period of less than six months, the officer presiding in the local British Court, shall, before giving up the party, institute a summary inquiry to ascertain whether the accused be really guilty of the charge brought against him, to any extent; and should the guilt be imputable to the prisoner, he will then be made over to the Jammu authorities. But if the party so demanded by the Jammu Government shall have resided in British territory for more than six months, he will not be liable to be surrendered to the Jammu authorities, but will be liable to be prosecuted in a British Court and punished on the charge being proved against him.

"*Fourthly.*—If on the occurrence of any crime in the Jammu territory, tracks of the offender should be followed into British territory, it will be the duty of the servants of the Maharaja to inform the local police officers and to take steps through their medium for the apprehension of the delinquent. The Maharaja's servants ought not to act independently of the British police. The police officers of the British Government should not, however, surrender to the Maharaja's officers any party who may be thus traced and apprehended without the permission of their District Court, whether he be a resident of foreign or British territory. But it will be the duty of the police to report immediately the circumstances to the District Court, and then act as they may be directed.

"*Fifthly.*—In like manner, if the track of any heinous crime committed within British territory, should be pursued into the Jammu territory by officers of the British police, they ought to inform the local Kardar, or Thanadar, and take steps for the apprehension of the delinquent through the Maharaja's police. But British police officers ought not to act independently of the local officers of the Jammu State.

"Diwan Joála Sahái has detailed in his petition eight classes of criminals, each separately. Although his enquiries have been answered as above as a whole, yet to avoid any future doubt, a reply to each is recorded below, item by item :—

"*Classification of criminals in the petition of Diwan Joala Sahai.*

"1. A subject of the Maharaja commits murder in the Maharaja's territory, and afterwards escapes into British territory.

"2. Ditto ditto escapes into British territory after wounding.

"3. Ditto ditto escapes into British territory after committing theft.

"4. Abduction of the wife of a subject of the Maharaja by a person who escapes with the woman into British territory.

"*Chief Commissioner's remarks.*

"The crimes here classified have been included in the category of the 20 classes of crime given above, and the rules regarding the parties accused of those crimes have been described in detail in paragraphs 1 to 6 of the rules above detailed. It is not necessary to repeat them here.

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"What steps are to be taken in cases of subjects of the British Government committing any of the above crimes in Jammu territory, if apprehended therein, or in case they should escape therefrom?

"5. Any party refusing to fulfil the promised betrothal of a daughter or sister escapes into British territory, taking along with him the daughter or sister.

"In such a case the party will not be surrendered to the Maharaja. But the aggrieved party might prosecute his claim in the British Court of the district where the defendant may be residing, and on his claim being substantiated, such redress will be given to him as is usually awarded in such cases in British Courts.

"6. Any person in the service of the Maharaja, from whom any sums are due to His Highness, flies into British territory. What should be done in this case?

"7. A person is sent to make purchases at Lahore, Amritsar, or Jullundur, for which purposes he is supplied with money. But the man refuses to refund the money, and does not fulfil his commission. What is to be done in such a case?

"Both these queries are answered together. The orders contained in paragraph 5 of the rules above mentioned will be applicable in this case, *i.e.*, the party might be prosecuted in the District Court where he may be residing.

"In the concluding portion of the petition the Diwan observes that 'the territory of the 'Maharaja is hilly and sub-montane. If criminals should escape with impunity and find 'asylum in British territory, the people of the hills and sub-montane country will be 'encouraged to commit murders, highway robberies and thefts'.

"These words would seem to imply a fancy of the Diwan that the Jammu administration is superior to that of the British Government. But he should recollect that in the territories subject to British rule thanas and chaukis are established at immense cost for the preservation of the happiness and comfort of the people, the security of which is the first object of the British Government. And the administration is so vigorous and strong that none of the foreign States can shew anything like it existing in their territories.

"Whereas the enquiries of Diwan Joala Sahai have all been answered as above, and it is desirable that this proceeding be acted upon

"It is hereby ordered that a copy of this proceeding be forwarded under cover of short kharita to the Maharaja, with a request that he will act accordingly. Copies also to be forwarded with a transmitting English letter to each of the Commissioners of Peshawar, Lahore, Jhelum and the Trans Sutlej States, with a request that they will furnish their subordinate district officers with a copy thereof for their guidance."

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(*d*).—*Regulations for the exercise of certain powers by the British officer on duty in Kashmir, and constituting a mixed Court for the hearing of certain Civil suits.*

*Fort William, the 28th March* 1873.

*No.* 605 P.—By virtue of authority duly acquired in that behalf by agreement with the Maharaja of Kashmir, the Governor-General in Council is pleased, under Sections 4 and 5 of Act XI of 1872 (*The Foreign Jurisdiction and Extradition Act*), to delegate to the British officer for the time being on duty in Kashmir the powers described in the following regulations:—

I. The British officer for the time being on duty at Srinagar shall represent the British Government in Kashmir, and for the maintenance of good order the following powers and duties are respectively conferred and imposed upon him:—

(*a*). He may direct any European British subject who is travelling or residing in Kashmir, and who is guilty of any gross misconduct, to leave Kashmir forthwith, and may punish any person knowing of such direction and disobeying the same with rigorous or simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(*b*). He shall receive, try, and determine in his Court (which shall be called "The Court of the British officer in Kashmir") all suits of a civil nature between European British subjects and their servants, provided—

(1) that the right to sue has arisen, or the defendant at the time of the commencement of the suit dwells, or carries on business, or personally works for gain, within Kashmir;

(2) that the suit is not of the same nature as those suits of which the cognizance by the ordinary Civil Courts of British India is barred by law.

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(c). He shall have the powers of a Magistrate of the first class, as described in Section 20 of the Code of Criminal Procedure (Act X of 1872), for the trial of offences committed by European British subjects, or by native British subjects being servants of European British subjects.

Provided that, in the case of any offender being a European British subject, he shall only have power to pass a sentence of imprisonment for a term not exceeding three months, or fine not exceeding one thousand rupees, or both; and when the offence complained of is under the Indian Penal Code punishable with death, or with transportation for life, or when it cannot, in the opinion of such officer, be adequately punished by him, he shall (if he thinks that the accused person ought to be committed) commit him to the Chief Court of the Punjab.

II. Fines shall be recovered in manner provided by Section 307 of the Code of Criminal Procedure (Act X of 1872).

III. Sentences of whipping shall be carried into execution in manner provided by Sections 310, 311, 312, and 313 of the same Code.

IV. Persons sentenced to imprisonment shall be transferred to, and confined in, the Sialkot or Rawalpindi Jail.

V. The procedure in all Civil suits between European British subjects, or European British subjects and their servants, shall be regulated by the Code of Civil Procedure. The procedure in all criminal prosecutions shall be regulated by the Code of Criminal Procedure.

VI. The said officer shall make rules to regulate the service and execution of processes issuing from his Court, and shall fix the fees to be charged to suitors for serving such processes.

VII. All questions of law, or fact, or both, arising in cases before the said officer shall be dealt with and determined according to the law administered in the Courts of the Punjab.

VIII. The said officer shall keep such registers, books, and accounts and submit to the Lieutenant-Governor of the Punjab such statements of the work done in exercise of the aforesaid powers, as may, from time to time, be prescribed by the said Lieutenant-Governor. He shall also comply with such requisitions for records as the said Lieutenant-Governor may, from time to time, make upon him.

IX. Duties and fees of the same amount respectively as the Stamp duties and Court fees prescribed by Act XVIII of 1869 and Act VII of 1870 shall be enforced by the said officer.

X. There shall be no appeal against any order, judgment or decree passed by the said officer in a Civil suit. But if, in the trial of any such suit, any question of law or as to the construction of a document (which construction may affect the merits of the decision) shall arise, he may draw up a statement of the case and refer it for the decision of the Chief Court of the Punjab; and he shall, on receipt of a copy of such decision, dispose of the case comformably thereto.

And any person convicted on a trial held by such officer may appeal to the Commissioner of the Rawalpindi Division; and if such person be a European British subject he may appeal either to the said Commissioner or to the Chief Court of the Punjab.

XI. The applicant shall in every case give notice of the appeal to the said British officer in Kashmir, who shall, if necessary, instruct the officer empowered to prosecute the case.

*The Mixed Court.*

XII. Civil suits between European British subjects or their servants, not being subjects of the Maharaja, on the one side, and subjects of His Highness the Maharaja of Kashmir on the other side, shall be decided by a mixed Court composed of the said British officer and the Civil Judge of Srinagar, or other officer specially appointed in this behalf by the Maharaja of Kashmir.

XIII. When the said British officer and the said Civil Judge or other officer are unable to come to a final decision in any such suit, they shall reduce their difference into writing and refer it to a single arbitrator to be named by them.

XIV. The arbitrator so nominated shall proceed to try the case, and his decision shall be final.

XV. And in every case of a reference under these rules—

(a) the arbitrator shall be at liberty to proceed *ex parte* in case either party, after reasonable notice, neglects or refuses, without good and sufficient cause, to attend on the reference;

(b) the arbitrator shall have power to summon witnesses in cases referred to him;

(c) and the parties respectively shall produce before the arbitrator all books and documents within their possession or control which the arbitrator may call for as relating to the matters referred;

(d) and the parties and their representatives in interest shall abide by and perform the award.

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(*e*).—*Investiture of certain officers with criminal powers in Biluchistan and elsewhere.*

(1).—BILUCHISTAN.

*The 4th July* 1878.

*No.* 1365*P.*, (*as amended by No.* 415*E. P.*, *dated 29th January* 1880).—In exercise of the powers conferred by Sections 4 and 8 of Act XI of 1872 (The Foreign Jurisdiction and Extradition Act, 1872), the Governor-General in Council, with the assent of His Highness the Khan of Khelat, is pleased (*a*) to empower the officer for the time being holding the office of Agent to the Governor-General in Biluchistan, to exercise the powers of a Sessions Judge and of a Magistrate of the 1st class as described in the Code of Criminal Procedure (Acts X of 1872 and XI of 1874) over all persons within the District of Quetta and Cantonment of Mittri; and (*b*) to direct—

1*st.* that any such officer may in his discretion try any case as Sessions Judge without a jury or the aid of assessors; and

2*ndly.* that sentences of death passed by any such officer shall be submitted for confirmation, under Chapter 21 of the said Code, to the Governor-General in Council.

*No.* 1366*P.*—In exercise of the powers conferred by Sections 4 and 8 of Act XI of 1872 (The Foreign Jurisdiction and Extradition Act, 1872), and of all other powers enabling him in this behalf, the Governor-General in Council, with the assent of His Highness the Khan of Khelat, is pleased to empower the officer for the time being holding the office of Assistant to the Agent to the Governor-General in Biluchistan in charge of the District of Quetta to exercise the powers of a Magistrate of the 1st class as described in the Code of Criminal Procedure (Acts X of 1872 and XI of 1874), and the special powers of a Magistrate as described in Section 36 of the said Code, over all persons within the District of Quetta.

*No.* 1367*P.*—In exercise of the powers conferred by Sections 4 and 8 of Act XI of 1872 (The Foreign Jurisdiction and Extradition Act, 1872), and of all other powers enabling him in this behalf, the Governor-General in Council, with the assent of his Highness the Khan of Khelat, is pleased to empower the officer for the time being holding the office of Second Assistant to the Agent to the Governor-General in Biluchistan, to exercise the powers of a Magistrate of the 1st class as described in the Code of Criminal Procedure (Acts X of 1872 and XI of 1874) over all persons within the Cantonment of Mittri.

*No.* 1368*P.*—In exercise of the powers conferred by Sections 4 and 6 of Act XI of 1872 (The Foreign Jurisdiction and Extradition Act, 1872), and of all other powers enabling him in this behalf, the Governor-General in Council, with the assent of His Highness the Khan of Khelat, is pleased (*a*) to appoint the officers for the time being holding the offices of Agent to the Governor-General in Biluchistan, First Assistant to the Agent to the Governor-General in Biluchistan, and Second Assistant to the Agent to the Governor-General in Biluchistan, respectively, being European British subjects, to be Justices of the Peace within the territories of His Highness, the said Khan of Khelat; and (*b*) to direct that the Chief Court of the Punjab shall be the Court to which such officers shall commit European British subjects for trial.

(2).—CHAMBA.

*Government of India Notification No.*155 *J. J.*, *dated* 19*th June* 1879.

(*e*). Whereas the Governor-General in Council has jurisdiction over European British subjects in the territories of the Raja of Chamba, it is hereby notified that in exercise of the powers conferred by Sections 4 and 6 of Act XI of 1872 (The Foreign Jurisdiction and Extradition Act, 1872), and of all other powers enabling him in this behalf, the Governor-General in Council is pleased (*a*) to appoint the officer for the time being holding the office of Superintendent of Chamba, being a European British subject, to be a Justice of the Peace within the territories of the said Raja of Chamba, and (*b*) to direct that the Chief Court of the Punjab shall be the Court to which such officer shall commit European British subjects for trial.

(3).—KAPURTHALA.

*Government of India Notification No.*157 *J. J.*, *dated* 19*th June* 1879.

(*f*). Whereas the Governor-General in Council has jurisdiction over European British subjects in the territories of the Raja of Kapurthala, it is hereby notified that in exercise of the powers conferred by Sections 4 and 6 of Act XI of 1872 (The Foreign Jurisdiction and Extradition Act, 1872), and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to appoint the officer for the time being holding the office of Superintendent of Kapurthala, being a European British subject, to be a Justice of the Peace within the territories of the said Raja of Kapurthala, and (*b*) to direct that the Chief Court of the Punjab shall be the Court to which such officer shall commit European British subjects for trial.

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(4).—NABHA AND PATAUDI —(RAJPUTANA STATE RAILWAY).

*Government of India Notification No. 234A. J. J., dated 28th November* 1881.

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Superseded. See Note B. III, *infra*.

(5).—PATIALA, JIND AND DUJANA (REWARI-FEROZEPORE RAILWAY).

*The 5th November* 1886.

*No.* 3927 *I.*—Whereas His Highness the Maharaja of Patiala, His Highness the Raja of Jind and the Nawab of Dujana, have granted to the British Government full jurisdiction within the lands which lie within their respective States and are occupied, or may be hereafter occupied, by the Rewari-Ferozepore State Railway (including the lands occupied, as stations, out buildings and for other railway purposes): In exercise of this jurisdiction, and of the powers conferred by Sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to issue the following notification:—

1. All laws for the time being in force in the Hissar District of the Punjab are here by extended to the aforesaid lands.
2. The Deputy Commissioner of the Hissar District, the Commissioner of the Delhi Division, the Financial Commissioners of the Punjab, and the Lieutenant-Governor of the Punjab and its Dependencies, for the time being, shall respectively have within the aforesaid lands the same executive powers as they may respectively exercise within the British territories subject to their administration.
3. British Courts having jurisdiction within the Hissar District may exercise within the aforesaid lands the jurisdiction which they respectively exercise within the said district.
4. Within the aforesaid lands the administration of the Police shall be vested in the Assistant Inspector-General of Railway Police, or such other officer as the said Lieutenant-Governor may appoint, by name or in virtue of office, in that behalf. The Assistant Inspector-General, or other officer as aforesaid, shall have the same Police powers as may be exercised by the District Superintendent of Police, under any law for the time being in force in the Hissar District, in subordination to the Deputy Commissioner of the Hissar District and the Inspector-General of Police in the Punjab.

(*Judicial Circular No.* XLIII).

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B. The following notifications are not referred to in the Judicial Circular above quoted:—

I. Whereas His Highness the Nawab of Bahawalpur has granted to the British Government full jurisdiction over a plot of land 11 acres 3 roods and 15 poles in extent, situated in Bahawalpur territory on the border of the Mooltan District of the Punjab, and required for the head-works of the Bahawalwah-Lodhran Canal; In exercise of such jurisdiction and of the powers conferred by Sections 4 and 5 of Act XXI of 1879 (The Foreign Jurisdiction and Extradition Act, 1879), the Governor-General in Council is pleased to notify as follows:—

1. All laws for the time being in force in the Mooltan District of the Mooltan Division are hereby extended to the aforesaid portion of land.
2. The Deputy Commissioner of the Mooltan District, and the Commissioner of the Mooltan Division for the time being, and the Chief Court of the Punjab, respectively, shall exercise within the aforesaid portion of land the same executive powers as they may respectively exercise within the British territories subject to their jurisdiction.
3. All British Courts having jurisdiction within the Mooltan District shall exercise the same jurisdiction within the aforesaid portion of land.
4. Within the aforesaid portion of land the administration of the police shall be vested in the District Superintendent of Police in the Mooltan District, who shall exercise the same police powers as may be exercised by District Superintendents of Police under any law for the time being in force in the Mooltan District, in subordination to the Deputy Commissioner of the Mooltan District and the Inspector-General of Police in the Punjab. (*No.* 2854 *I, dated 25th September* 1883, *Gazette of India of 29th idem*).

II. In exercise of the powers conferred by Sections 4 and 6 of Act XXI of 1879 (the Foreign Jurisidiction and Extradition Act, 1879), and of all other powers enabling him in this behalf, the Governor-General in Council is pleased—

(*a*) to appoint the Cantonment Magistrate for the time being of the Cantonment of Quetta, being a European British subject, to be a Justice of the Peace within the limits of that cantonment; and

(*b*)* * * * * * * * *

(*No.* 50*E, dated 5th January* 1884, *Gazette of India of 12th idem*).

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NOTE.—A Small Cause Court has been established in Quetta (see Notifications Nos. 45 E, 46 E, and 48 E, dated 5th January 1884, *Gazette of India* of 12th idem, pp. 9, 10), and Act III of 1880 has (subject to certain modifications) been extended to the cantonment of Quetta (see No 47 E., dated 5th January 1884, *Gazette of India* of 12th idem, p. 9 and No 1224 E. dated 13th June 1888, *Gazette of India* of 16th idem, Part I, p. 278) See also No. 542 E, dated 14th April 1885, *Gazette of India* of 18th idem, p. 242).

For the limits of the Cantonment of Quetta, see No. 347 E, dated 6th March 1885, *Gazette of India* of 7th idem, Part I, p. 196. As regards the Administration of Civil Justice in Quetta, see No. 590 E., dated 21st April 1885, *Gazette of India* of 25th idem, Part I, p. 264.

In exercise of the powers conferred by Sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, XXI of 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to extend the provisions, so far as they may be applicable, of the Land Acquisition Act. X. of 1870, to the district, including the Cantonment and town, of Quetta. (*Government of India No.* 1522 *E.,dated 24th July* 1888, *Gazette of India of 28th idem, Part I, p.* 350).

III. No. 1839 E.—In exercise of the powers conferred by Sections 4 and 6 of the Foreign Jurisdiction and Extradition Act. 1879, and of all other powers enabling him in this behalf, the Governor-General in Council, with the assent of His Highness the Khan of Khelat, is pleased to appoint the Agent for the time being to the Governor-General in Beluchistan being an European British subject, to be a Justice of the Peace within the territories of His Highness the said Khan of Khelat, and to direct that the Chief Court of the Punjab shall be the Court to which the said Justice of the Peace shall commit European British subjects, for trial.

No. 1840 E.—In exercise of the powers conferred by Sections 4 and 6 of the Foreign Jurisdiction and Extradition Act, 1879, and of all other powers enabling him in this behalf, the Governor-General in Council, with the assent of His Highness the Khan of Khelat, is pleased to appoint the Political Agents for the time being of (*a*) Thal Chotiali, (*b*) Quetta and Pishin, (*c*) Kalat and (*d*) Jacobabad, being European British subjects, to be Justices of the Peace within the territories of His Highness the Khan of Khelat and to direct that the Court of the Agent to the Governor-General in Biluchistan as the Court of Session, and the Chief Court of the Punjab as the High Court, shall be the Courts to which the said Justice of the Peace shall commit European British subjects for trial.

No. 1841 E.—In continuation of the notification of the Government of India, Foreign Department, No. 50 E, dated the 5th January 1884, (*vide* Note II, *super*), and in supersession of clause (*b*) thereof, the Governor-General in Council is pleased, under Section 6 of the Foreign Jurisdiction and Extradition Act, 1879, to direct that the Court of the Agent to the Governor-General in Biluchistan, as the Court of Session, and the Chief Court of the Punjab, as the High Court, shall be the Courts to which the Cantonment Magistrate for the time being of the Cantonment of Quetta as a Justice of the Peace shall commit European British subjects for trial. (*Nos.* 1839 *E*, -1841, *E.*, *dated 5th December* 1885, *Gazette of India of* 12*th idem, Part I, p.* 667).

IV.—Whereas His Highness the Maharaja Holkar, His Highness, the Raja of Nabha, and the Nawab of Pataudi, have ceded to the British Government full jurisdiction within those portions of land which lie within their respective States, and are occupied or may be hereafter occupied, by the railways comprised in the Rajputana-Malwa Railway System, including the lands occupied as stations, out-buildings and for other railway purposes :—In exercise of this jurisdiction, and of the powers conferred by Sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to provide as follows for the administration of justice within the aforesaid portion of land ;—

*I.* (1). All laws for the time being in force in the Nimar District of the Central Provinces are hereby extended to the portion of the aforesaid lands which lies in the State of Indore and is situated to the south of the River Nerbudda.

(2). The Deputy Commissioner of the Nimar District, the Commissioner of the Nerbudda Division, and the Chief Commissioner of the Central Provinces, for the time being, shall respectively exercise within this portion of the aforesaid lands, the same executive powers as they may respectively exercise within British territories subject to their administration.

(3). All British Courts having jurisdiction within the Nimar District shall exercise the same jurisdiction within this portion of the aforesaid lands.

(4). Within this portion of the aforesaid lands the administration of the police shall be vested in the Superintendent and an Assistant Superintendent of the Police of the Rajputana-Malwa Railway System. These officers shall respectively exercise the same police powers as may be exercised by District Superintendents and Assistant District Superintendents of Police under any law for the time being in force in the Nimar District, in subordination to the Deputy Commissioner of the Nimar District and the Inspector-General of Police in the Central Provinces.

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*II.* (1). All laws for the time being in force in the Gurgaon District of the Punjab are hereby extended to the portion of the aforesaid land which lies in the States of Nabha and Pataudi.

(2). The Deputy Commissioner of the Gurgaon District, and the Commissioner of the Delhi Division, and the Lieutenant-Governor of the Punjab, for the time being, shall respectively exercise, within this portion of the aforesaid land, the same executive powers as they may respectively exercise within the British territories subject to their administration.

(3). All British Courts having jurisdiction within the Gurgaon District, shall exercise the same jurisdiction within this portion of the aforesaid land.

(4). Within this portion of the aforesaid land, the administration of the police shall be vested in the Superintendent and an Assistant Superintendent of the Police on the Rajputana-Malwa Railway System. These officers shall exercise respectively the same police powers as may be exercised by District Superintendents and Assistant District Superintendents of Police under any law for the time being in force in the Gurgaon District, in subordination to the Deputy Commissioner of the Gurgaon District and the Inspector-General of Police in the Punjab.

*III.* This notification supersedes the undermentioned notifications of the Government of India in the Foreign Department :—

(*a*). Notification No. 2134 G., dated the 15th October 1875 (Part I only relating to Indore Territory south of the Nerbudda).

(*b*). Notification No. 234 A.I.J., dated the 28th November 1881.

(*No.* 1007 *I, dated* 18*th March* 1884, *Gazette of India of* 22*nd idem*).

V. Whereas the Raja of Keonthal has granted to the British Government full jurisdiction within a tract of land adjoining the Municipality of Simla, and more particularly described in the Schedule hereto annexed :

In exercise of such jurisdiction and of the powers conferred by Sections 4 and 5 of Act XXI of 1879 (The Foreign Jurisdiction and Extradition Act), and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to notify as follows :—

(1) Except as hereinafter provided, all laws, regulations, rules, bye-laws, and orders for the time being in force in the Municipality of Simla, in the Simla District of the Punjab, shall also be in force in the aforesaid tract of land.

(2) The Deputy Commissioner of the Simla District, the Commissioner of the Delhi Division, the Financial Commissioner of the Punjab, and the Lieutenant-Governor of the Punjab and its Dependencies, for the time being, and the Chief Court of the Punjab, respectively, shall exercise within the aforesaid tract of land the same executive powers as they may respectively exercise within the British territories subject to their jurisdiction.

(3) All British Courts established within the Municipality of Simla, shall, within the aforesaid tract of land, exercise the jurisdiction which they are, from time to time, respectively, empowered to exercise within the limits of the said Municipality.

(4) Within the aforesaid tract of land the administration of police shall be vested in the District Superintendent of Police of the Simla District, who shall exercise the same police powers as may be exercised by him under any law, rule, regulation, bye-law, or order for the time being in force in the Simla Municipality, in subordination to the Deputy Commissioner of the Simla District, the Deputy Inspector-General of Police of the Umballa Circle, the Inspector-General of Police in the Punjab, and the Lieutenant-Governor of the Punjab and its Dependencies.

(5) Unless and until the Lieutenant-Governor of the Punjab so directs, the Punjab Municipal Act (Act XIII of 1884) and the regulations, rules, bye-laws, or orders made under the said Act, shall not extend to the aforesaid tract of land.

The Lieutenant-Governor of the Punjab may, by notification in the official Gazette extend with or without such modification as he thinks fit, the whole or any part of the said Act, or of any regulations, rules, bye-laws, or orders made under the said Act to the aforesaid tract.†

(6) All officers serving under the Lieutenant-Governor of the Punjab, who exercise any authority or jurisdiction within the limits of the said Municipality, shall, if required by the Deputy Commissioner of the Simla District, or the Commissioner of the Delhi Division, also exercise such authority or jurisdiction within the

†Such power may be exercised from time to time as occasion requires, and the Lieutenant-Governor may at any time revoke or vary a Notification issued in exercise of such power.—(*No.* 3494 *I, dated* 15*th October* 1885, *Gazette of India of* 17*th idem, Part I, page* 584).

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aforesaid tract of land in subordination to the same control that regulate the exercise of that authority or jurisdiction within the limits of the said Municipality.

SCHEDULE.

The tract of land comprising an area of 49 acres, 1 pole, 27 yards, and delineated on the plan annexed to the lease executed by the Raja of Keonthal on the 24th October 1884.

(*No.* 1516 *I, dated* 15*th May* 1885, *Gazette of India of* 16*th idem*).

V (*a*). In the exercise of the power delegated to him by the Governor-General in Council in the fifth clause of the Notification of the Government of India, Foreign Department, No. 1516 I., dated the 15th May 1885, the Hon'ble the Lieutenant-Governor is pleased to extend to the tract of land to which that notification relates, the Punjab Municipal Act, 1884, subject to the modifications hereinafter mentioned, and the Rules Regulations, Bye-laws and Orders now in force in the Municipality of Simla, so far as those Rules. Regulations, Bye-laws and Orders can be made applicable.

2. The modifications of the said Act are the following, namely :—

(1) Unless there is something repugnant in the subject or context,

(*a*) "Municipality" shall mean the said tract of land ;

(*b*) "Local Government" shall mean the Government of the Punjab and its Dependencies ;

(*c*) "Official Gazette" shall mean the Gazette of that Government ; and

(*d*) "Commissioner" shall mean the Commissioner of the Delhi Division.

(2) A Municipal Committee shall not be established for the Municipality, but the Deputy Commissioner of Simla, for the time being, shall, within and for the Municipality, have all the powers of a Municipal Committee under the said Act, and all expressions in that Act referring to a Municipal Committee or to any member thereof, shall, for the purposes of the said Act, be construed so far as the nature of the case permits, as referring to the said Deputy Commissioner.

(3) The Municipality shall be deemed to be a place in which a tax on buildings and lands not exceeding ten per cent. on the annual value may be imposed under Section 39 of the said Act.

(4) Notwithstanding anything in the said Act or in any Rule, Regulation, Bye-law or Order, octroi shall not be payable in the Municipality in respect of animals or goods on which octroi has been paid in the Municipality of Simla.

(5) Notwithstanding anything in Section 68 of the said Act, the said Deputy Commissioner may pay annually out of the Municipal Fund to the Municipal Committee of Simla and the Raja of Keonthal such sums as the Local Government may direct.

(6) The Municipal Fund shall be kept in the Government treasury at Simla.

(7) The tax at the rate of ten rupees per two thousand five hundred square yards or fraction of two thousand five hundred square yards, referred to in Section 177 of the said Act, may be imposed and assessed in the said tract of land, so far as may be, by the procedure prescribed by the Act for the imposition and assessment of taxes on immoveable property ; and the tax when so imposed and assessed, shall be leviable in addition to any other tax leviable under the Act.

(*No.* 1335 S. *dated* 16*th September* 1885, *Punjab Gazette of* 17*th idem, Part I A., page* 82).

V (*b*).—It is hereby notified that the Deputy Commissioner of Simla, with the previous sanction of the Local Government, under Section 47 of Act XIII of 1884, has made the following rule in the matter of the dates on which the House, Ground, Frontage, Vehicle, Animal, and Servants' Taxes shall be payable in the Municipality of Kasumti :—

The imposition of taxes in the Municipality of Kasumti having been sanctioned by the Punjab Government, it is hereby notified that the said taxes will be payable on the following dates—

| | |
|---|---|
| House Tax at Rs. 10 per cent. on annual rent ... | 1st moiety 1st May.<br>2nd „ 1st September. |
| Ground Tax of Rs. 10 on every 2,500 square yards or fraction thereof ... | 1st September. |
| Frontage Tax of Re. 1-8-0 per running foot of frontage | 1st moiety 1st June.<br>2nd „ 1st October. |
| Tax of Rs. 8 each on wheeled vehicles drawn or propelled by men ... | 1st August. |
| Tax of Rs. 4 each on horses, ponies, mules, &c., used for the purposes of riding or driving ... | 1st August. |
| Tax of Rs. 2 each on horses, ponies, mules, &c, used for the purposes of draught ... | 1st August. |
| Tax of Rs. 2 on each dog ... | 1st August. |
| Tax of Rs. 2 on every menial or domestic servant... | 1st August. |

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The above rule has been confirmed by the Lieutenant-Governor, and shall come into force on the 1st March 1886. In accordance with the directions of the Lieutenant-Governor given in this behalf, it is hereby published in the *Punjab Government Gazette* during the interval between the date aforesaid and the date of the publication of this Notification.

(*No.* 124, *dated* 17*th February* 1886, *Punjab Gazette of* 18*th idem, Part I A., page* 186).

VI. Whereas His Highness the Raja of Nabha and His Highness the Raja of Faridkot have granted to the British Government full jurisdiction within the lands which lie within their respective States and are occupied, or may be hereafter occupied by the Rewari-Ferozepore State Railway, including the lands occupied as stations, out-buildings, and for other purposes connected with the railway within their territories : In exercise of this jurisdiction, and of the powers confered by Sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to issue the following Notification ;—

1. All laws for the time being in force in the Ferozepore District of the Punjab are hereby extended to the aforesaid lands.

2. The Deputy Commissioner of the Ferezepore District, the Commissioner of the Jullundur Division, the Financial Commissioner of the Punjab, and the Lieutenant-Governor of the Punjab and its Dependencies for the time being shall respectively have within the aforesaid lands the same executive powers as they may respectively exercise within the British territories subject to their administration.

3. British Courts having jurisdiction within the Ferozepore District may exercise within the aforesaid lands the jurisdiction which they respectively exercise within the said district.

4. Within the aforesaid lands the administration of the police shall be vested in the Assistant Inspector-General of Railway Police, or such other officer as the said Lieutenant-Governor may appoint, by name or in virtue of his office, in that behalf. The Assistant Inspector-General or other officer as aforesaid shall have the same police powers as may be exercised by the District Superintendent of Police under any law for the time being in force in the Ferozepore District, in subordination to the Deputy Commissioner of the Ferozepore District and the Inspector-General of Police in the Punjab.

(*No.* 2925 *I, dated* 28*th August* 1885, *Gazette of India of* 29*th idem*).

VII. Whereas His Highness the Maharaja of Patiala, His Highness the Raja of Nabha and His Highness the Raja of Kapurthala have ceded to the British Government full jurisdiction within the lands which lie within their respective States and are occupied by the North Western Railway, till lately called the Sind, Punjab and Delhi Railway, (including the land occupied as stations, out-buildings, and for other purposes connected with the Railway within their territories): In exercise of this jurisdiction, and of the powers conferred by Sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to issue the following notification :—

*I.*—(1). The provisions, so far as they may be applicable, of all laws for the time being in force in the Ludhiana District of the Punjab, are hereby extended to the portion of the aforesaid lands which lies in the Pail Tahsil of the Patiala State.

(2). The Deputy Commissioner of the Ludhiana District and the Commissioner of the Jullundur Division, for the time being, shall have within this portion of the aforesaid lands the same executive powers as they have, respectively, within the British territories subject to their administration.

(3). All British Courts having jurisdiction within the Ludhiana District shall have within the portion of the aforesaid lands the jurisdiction which they have respectively, within the said district.

*II.*—(1). The provisions, so far as they may be applicable, of all laws for the time being in force in the Umballa District of the Punjab, are hereby extended to the portions of the aforesaid lands which lie in the Nabha State or in any sub-division of the Patiala State other than the Pail Tahsil.

(2). The Deputy Commissioner of the Umballa District and the Commissioner of the Delhi Division, for the time being, shall have within these portions of the aforesaid lands the same executive powers as they have, respectively, within the British territories subject to their administration.

(3). All British Courts having jurisdiction within the Umballa District shall have within these portions of the aforesaid lands the jurisdiction which they have, respectively, within the said district.

*III.*—(1). The provisions, so far as they may be applicable, of all laws for the time being in force in the Jullundur District of the Punjab, are hereby extended to the portion of the aforesaid land which lies in the Kapurthala State.

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(2). The Deputy Commissioner of the Jullundur District and the Commissioner of the Jullundur Division, for the time being, shall have within this portion of the aforesaid lands the same executive powers as they have, respectively, within the British territories subject to their administration.

(3). All British Courts having jurisdiction within the Jullundur District shall have within this portion of the aforesaid lands the jurisdiction which they have, respectively, within the said district.

*IV.*—The Financial Commissioners of the Punjab, and the Lieutenant-Governor of the Punjab and its Dependencies, for the time being, shall have within all the aforesaid lands the same executive powers as they have, respectively, within the British territories subject to their administration.

*V.*—Within all the aforesaid lands the administration of the Police shall be vested in the Assistant Inspector-General of Railway Police, or such other officer or officers as the said Lieutenant-Governor may appoint, by name or in virtue of office, in that behalf; and the Assistant Inspector-General or other officer or officers as aforesaid shall have within the several portions of the said lands, in subordination to the Deputy Commissioner having jurisdiction therein, and to the Inspector-General of Police of the Punjab, all the powers which the District Superintendent of Police has for the time being in the Ludhiana, Umballa, or Jullundur District, as the case may be.

(*No.* 1503 *I, dated 7th May* 1886, *Gazette of India of 8th idem*).

VIII.—Whereas His Highness the Nawab of Bahawalpur, on the 19th July 1886, ceded to the British Government, in full sovereignty, certain lands which now form part of the Railway station at Khanpur of the North-Western Railway, the Governor-General in Council is pleased, in exercise of the power vested in him by the Statute 28 and 29 Victoria, chapter 17, Section 4, to declare that the lands shall be subject to the Lieutenant-Governorship of the Punjab.

(*No.* 1018 *I, dated 25th February* 1887, *Gazette of India of 16th idem*).

IX.—As regards powers and jurisdiction (Civil and Criminal) over land occupied by the Kandahar State Railway, see *Government of India Notifications Nos.* 947 *E. and* 948 *E, dated 12th May* 1883 (*Gazette of India of 19th idem, Part I, page* 220).

X.—As regards jurisdiction and powers in the Khyber Pass, and lands adjoining, see Nos. 2134 E. P. and 2135 E. P., dated 2nd July 1880, as modified by No. 1085 F., dated 15th June 1886.

XI.—The Railway Act and the Contract Act have been extended to lands occupied by the S. P. and D. Railway, the Indus Valley State Railway, and the Rajputana Railway. See Note (*c*) to Act IV of 1879.

The Railway Act, 1879, (subject to certain modifications) and the Sindh Pishin Railway Act, 1887, have been extended to that part of the Sindh Pishin section of the North-Western Railway which lies within the territories of the Khan of Khelat. See Note (*d*) to Act IV of 1879.

Section 34 of the Police Act (V of 1861), has also been extended to—

(*a*) the Bazars in the Bolan;

(*b*) the Bazars in the Harnai Route; and

(*c*) the Civil bazars attached to the fort of Peshin, and the frontier posts at Sibi and Thal Chotiali.

See Note (*d*) to Section 34 of Act V of 1861, *ante* p. 146.

The same section has been extended to the bazaar of Quetta.

(*No.* 2441 *E, dated 29th October* 1886, *Gazette of India of 30th idem Pt.* I, *p.* 648).

See also Notes (*c*) and (*d*) to Section 27, Act XII of 1882.

## ACT No. I of 1880.

(*Passed on the 9th January* 1880).

An Act to confer certain powers on Religious Societies.

Preamble.

Whereas it is expedient to simplify the manner in which certain bodies of persons associated for the purpose of maintaining religious worship may hold property acquired for such purpose, and to provide for the dissolution of such bodies and the adjustment of their affairs and for the decision of certain questions relating to such bodies; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Religious Societies Act, 1880."

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Commencement. It shall come into force at once; and

Local extent. shall extend to the whole of British India;

but nothing herein contained shall apply to any Hindus, Muhammadans or Buddhists, or to any persons whom the Governor-General in Council may, from time to time, by notification in the *Gazette of India*, exclude from the operation of this Act.

Appointment of new trustee in cases not otherwise provided for.

2. When any body of persons associated for the purpose of maintaining religious worship has acquired, or hereafter shall acquire, any property, and such property has been or hereafter shall be vested in trustees in trust for such body,

and it becomes necessary to appoint a new trustee in the place of or in addition to any such trustee or any trustee appointed in the manner hereinafter prescribed,

and no manner of appointing such new trustee is prescribed by any instrument by which such property was so vested or by which the trusts on which it is held have been declared, or such new trustee cannot for any reason be appointed in the manner so prescribed,

such new trustee may be appointed in such manner as may be agreed upon by such body, or by a majority of not less than two-thirds of the members of such body actually present at the meeting at which the appointment is made.

Appointment under Section 2 to be recorded in a memorandum under the hand of the chairman of the meeting.

3. Every appointment of new trustees under section two shall be made to appear by some memorandum under the hand of the Chairman for the time being of the meeting at which such appointment is made.

Such memorandum shall be in the form set forth in the schedule hereto annexed, or as near thereto as circumstances allow, shall be executed and attested by two or more credible witnesses in the presence of such meeting, and shall be deemed to be a document of which the registration is required by the Indian Registration Act, 1877, section seventeen.

Property to vest in new trustees without conveyance.

4. When any new trustees have been appointed, whether in the manner prescribed by any such instrument as aforesaid or in the manner hereinbefore provided, the property subject to the trust shall forthwith, notwithstanding anything contained in any such instrument, become vested, without any conveyance or other assurance, in such new trustees, and the old continuing trustees jointly, or, if there are no old continuing trustees, in such new trustees wholly, upon the same trusts, and with and subject to the same powers and provisions, as it was vested in the old trustees.

Saving of existing modes of appointment and conveyance.

5. Nothing herein contained shall be deemed to invalidate any appointment of new trustees, or any conveyance of any property, which may hereafter be made as heretofore was by law required.

Provision for dissolution of societies and adjustment of their affairs.

6. Any number not less than three-fifths of the members of any such body as aforesaid may, at a meeting convened for the purpose, determine that such body shall be dissolved and thereupon it shall be dissolved forthwith, or at he time then agreed upon; and all necessary steps shall be taken for the disposal and settlement of the property of such body, its claims and lia-

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bilities, according to the rules of such body applicable thereto, if any, and if not, then as such body at such meeting may determine:

Provided that, in the event of any dispute arising among the members of such body, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of such body is situate; and the Court shall make such order in the matter as it deems fit.

Upon a dissolution no member to receive profit.

7. If upon the dissolution of any such body there remains, after the satisfaction of all debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of such body or any of them, but shall be given to some other body of persons associated for the purpose of maintaining religious worship or some other religious or charitable purpose to be determined by the votes of not less then three-fifths of the members present at a meeting convened in this behalf, or in default thereof by such Court as last aforesaid.

Saving of certain provisions of instruments.

8. Nothing in sections six and seven shall be deemed to affect any provision contained in any instrument for the dissolution of such body, or for the payment or distribution of such property.

Questions may be submitted to High Court.

9. When any question arises, either in connection with the matters hereinbefore referred to, or otherwise, as to whether any person is a member of any such body as aforesaid, or as to the validity of any appointment under this Act, any person interested in such question may apply by petition to the High Court for its opinion on such question. A copy of such petition shall be served upon, and the hearing thereof may be attended by, such other persons interested in the question as the Court thinks fit.

Any opinion given by the Court on an application under this section shall be deemed to have the force of a declaratory decree.

The costs of every application under this section shall be in the discretion of the Court.

## THE SCHEDULE.

(*See Section* 3).

Memorandum of the appointment of new trustees of the (*describe the church, chapel or other buildings and property*) situate . at a meeting duly convened and held for that purpose (*in the vestry of the said* ) on the day of 18 *A. B.* ,of ,Chairman.

Names and descriptions of all the trustees on the constitution or last appointment of trustees made the day of

(*here insert the same*).

Names and descriptions of all the trustees in whom the said (*chapel and property*) now become legally vested.

*First.*—Old continuing trustees:—

(*here insert the same*).

*Second.*—New trustees now chosen and appointed:—

(*here insert the same*).

Dated day of 18

Signed by the said *A. B.* as Chairman of the said meeting at and in the presence of the said Meeting on the day and year aforesaid in the presence of— } *A. B.* *Chairman of the said Meeting.*

*C. D.*

*E. F.*

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# ACT No. III of 1880.

(*Passed on the 30th January* 1880).

An Act to amend the law relating to Cantonments.

Preamble.

Whereas it is expedient to amend the law relating to cantonments; It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

Short title.

1. This Act may be called "The Cantonments Act, 1880."

Local extent.

This section, section two, and section twenty-four apply to the whole of British India. The remaining portions of this Act extend to the whole of British India except the territories respectively administered by the Governor of Fort St. George in Council, and the Governor of Bombay in Council. The Governor of Fort St. George in Council or the Governor of Bombay in Council may, by notification in the official Gazette, extend any such portion to any place under his administration; and, from the date on which any such portion is so extended to any place, such of the enactments for the time being in force in such place as are in any way inconsistent with, or repugnant to, such portion shall cease to have effect in such place.

Enactments inconsistent with this Act in Madras and Bombay cantonments.

Repeal of Act XXII of 1864.

2. Act No. XXII of 1864 (*to provide for the administration of Military Cantonments*) is hereby repealed; but all orders, declarations, rules, and regulations made, powers conferred, and Courts established under that Act, shall be deemed to be respectively made, conferred, and established under this Act.

References to Act XXII of 1864.

All references to the said Act No. XXII of 1864 in enactments passed subsequently thereto shall be read as if made to this Act.

## CHAPTER II.

### CRIMINAL JURISDICTION.

Cantonment Magistrate.

3. Every person invested by the Local Government, under the Code of Criminal Procedure, with the powers of a Magistrate of the first class within the limits of any cantonment, shall be styled the Cantonment Magistrate, and shall be deemed a Magistrate in charge of a division of a district within the meaning, and for the purposes, of the said Code.

Assistant Cantonment Magistrate.

4. Every person invested by the Local Government, under the provisions of the said Code, with the powers of a Magistrate of the second or third class within the limits of any cantonment, shall be styled the Assistant Cantonment Magistrate.

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## CHAPTER III.

### CIVIL JURISDICTION.

Small Cause jurisdiction of Cantonment Magistrate.

5. Whenever the Local Government establishes within the limits of any cantonment a Court of Small Causes under Act No. XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature*), the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established.

The Local Government shall declare and may from time to time alter the pecuniary limit of the jurisdiction of every such Court, but such limit shall in no case exceed five hundred rupees.

Small Cause jurisdiction of Assistant Cantonment Magistrate.

6. The Local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court referred to in section five; provided that no Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding fifty rupees.

Act XI of 1865 to apply to all Small Cause Courts in cantonments.

7. All the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

8. *Repealed by Act VIII of* 1887.

NOTE.—"With reference to Notification No. 85 of 16th January 1865, extending the provisions of Act XXII of 1864 to the Military Cantonments of the Punjab, it is hereby further notified as follows:—

"1. The undermentioned officers having been invested with the powers of a Magistrate under the provisions of Section 37 of the Code of Criminal Procedure, shall in future be styled Cantonment Magistrates, instead of as heretofore, Cantonment Joint Magistrates:—

* * * * *

"2. In the Military Cantonments marginally noted, a Court of Small Causes for the trial of suits of the nature described in Section 3 of Act XLII of 1860 shall be established under the direction of the Judicial Commissioner, and the Cantonment Magistrates above named shall be Judges of the Courts so established in their respective Cantonments. In the Cantonment of Amritsar, the Judge of the Small Cause Court of Amritsar shall be constituted Judge of the Cantonment Small Cause Court.*

| | |
|---|---|
| Delhi. | Mian Mir. |
| Umballa. | Ferozepore. |
| Jullundur. | Rawalpindi. |
| Sialkot. | Mooltan. |
| Amritsar. | Peshawar. |

"3. The pecuniary limit of the jurisdiction of Small Cause Courts shall be rupees five hundred.

"4. So soon as the arrangements necessary for opening the Courts shall have been completed, they shall be opened on dates to be notified by the Judicial Commissioner in the *Punjab Gazette*, and from such dates the jurisdiction exercised in such Cantonment by any officer under Act III of 1856 shall cease and determine, and so much of any Act as authorizes the commanding officers of stations and Cantonments to convene military Courts of Request for the trial of actions of debt and other personal actions, shall cease to have effect within the limits of such Cantonments.

"5. Section 34 of Act V of 1861 (providing for the arrest and punishment of persons committing certain nuisances and obstructions) is hereby extended to all Military Cantonments in the Punjab.

"6. With a view to the extension of the provisions of Act XXII of 1864 (*an Act to make provision for regulating the administration of Military Cantonments*) to Military Cantonments in the Punjab, and of framing rules and regulations under Section 17 of that Act, a committee

* Consequent on the abolition of the office of Cantonment Magistrate at Delhi, the local Jurisdiction of the Small Cause Court is extended so as to include the area of Cantonments.—(*Notification No.* 1541, *dated* 10*th November* 1865—*Punjab Gazette of* 16*th idem, page* 725).

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shall be assembled in each Cantonment, consisting of the Commanding Officer, the Magistrate of the district or Assistant in charge of the sub-division, as the case may be, and the Cantonment Magistrate, for considering and reporting upon the following matters :—

"*First.*—Upon draft rules and regulations, regarding the matters described in Section 19 to be forwarded hereafter.

"*Second.*—Upon the funds required for carrying out such rules and regulations, and the general purposes of Act XX of 1856; and

"*Third.*—Upon the best mode of raising the said funds.

"For the guidance of such committees separate instructions will be issued.

"7. Until such time as the rules and regulations above referred to shall have been framed, confirmed, and promulgated, all existing local regulations lawfully made by commanding officers, regarding matters other than military, shall continue in force."—(*Notification No.* 86, *dated* 16*th January* 1865—*Punjab Gazette of* 18*th idem, page* 49).

## CHAPTER IV.

### POLICE.

Act V of 1861 applicable to police employed in cantonments.

**9.** The police-force employed in any cantonment shall be deemed to be part of the general police-force under the Local Government in whose territories such cantonment is situate, within the meaning of Act No. V of 1861 (*for the Regulation of Police*), section two, and all the provisions of the said Act shall be applicable to such force.

Administration of police within cantonments.

The administration of the police within the limits of any cantonment in which there is a Cantonment Magistrate shall be vested in the District Superintendent, subject to the general control and direction of the commanding-officer of such cantonment.

Extension of Section 34, Act V of 1861, to cantonments.

**10.** The Local Government may extend section thirty-four of the said Act No. V of 1861 to any cantonment situate in the territories administered by such Government.

Service of process sent by commanding-officer of cantonment.

**11.** The commanding-officer of a cantonment may send any process requiring service or execution by any means not immediately at his disposal to the chief police-officer in the cantonment for service or execution through the cantonment-police; and the said chief police-officer shall serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

Power to extend Act XX of 1856 to cantonments.

**12.** The Local Government may, by notification in the official Gazette, extend the provisions of Act No. XX of 1856 (*to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal*) to any cantonment to which a Cantonment Magistrate may be appointed; and the Cantonment Magistrate of any cantonment to which the said Act is so extended, may exercise all the powers vested in a Magistrate by that Act, subject only to the control of the Magistrate of the District and the Local Government.

Whenever any such Cantonment Magistrate is absent, or when his office is temporarily vacant, the Magistrate of the District shall, during such absence, or until the Local Government fills up the vacancy, carry out the provisions of the same Act when so extended as aforesaid.

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NOTE.—The Hon'ble the Lieutenant-Governor is pleased, under Section 12 of Act III of 1880, to extend the provisions of Act XX of 1856, to the Cantonment of Amritsar, and under Section 10 of Act XX of 1856 to declare that a tax shall be assessed on the annual value of the houses and grounds situated therein.—*No.* 2910, *dated* 19*th November* 1884, *Punjab Gazette of* 20*th idem, Part I, page* 1126).

See also the Notes to Section 2, Act XX of 1856.

Power to order division of cantonments, &c.

**13.** The Local Government may order that any cantonment to which the provisions of the said Act No. XX of 1856 are extended shall be divided into any number of cantonment-divisions, and may determine the nature of the tax to be levied in each such division according to section ten of the same Act.

NOTES.—(*a*).—In supersession of Notification No. 80, dated 5th January 1878, published at page 6 of Part I of the *Punjab Government Gazette* of the 10th idem, His Honor the Lieutenant-Governor is pleased, under the provisions of Section 15 of Act XXII of 1864, to declare that the Cantonment of Kasauli, in the Simla district, shall be divided into two cantonment divisions, as follows :—

*Division A.*—That portion of the Kasauli Bazar, the limits of which are defined by 23 boundary pillars distinct from those marking the cantonment.

*Division B.*—All that portion of the Kasauli Cantonment not included in the Bazar.

His Honor is further pleased under the provisions of Section 10 of Act XX of 1856, to sanction the levy of a rate not exceeding 5 per cent. on the annual rental of houses in division B ; unoccupied houses being exempt.

(*Punjab Government Notification No.* 495, *dated* 4*th February* 1878, *Punjab Gazette of* 7*th idem*).

(*b*).—Under the provisions of Section 13 of Act III of 1880, the Hon'ble the Lieutenant-Governor is pleased to declare that the Cantonment of Mooltan, in the Mooltan District, shall be divided into four Cantonment divisions, as follows :—

I. Sadar and British Infantry Bazars.
II. Royal Artillery and Native Infantry Bazars.
III. Native Cavalry and Khat Khana Bazars.
* IV. Remainder of Cantonment.

His Honor is further pleased, under Section 10 of Act XX of 1856, to sanction the levy of a rate by assessment according to the circumstances and the property to be protected of persons liable to the tax and residing in divisions I, II and III, and in division IV a rate of 5 per cent. on the annual value of houses and grounds therein.

* NOTE.—The boundaries of divisions I, II and III are defined by boundary pillars marked T. D. 1, 2 and 3, respectively. Division No. IV is defined by the Cantonment boundary pillars.

(*No.* 2683, *dated* 28*th October* 1884, *Punjab Gazette of* 30*th idem, Part I, page* 1044).

(*c*). Under the provisions of Section 13 of Act III of 1880 (The Cantonments Act), the Hon'ble the Lieutenant-Governor is pleased to direct that the Cantonment of Ferozepore, in the Ferozepore District, shall be divided into two Cantonment divisions as follows :—

*Division A.*—The Sadr, British Infantry, Royal Artillery and Native Infantry Bazars, the Gwal Toli, Khatik Mandi, Kumhar Mandi, and Mochi Mandi.

*Division B.*—The rest of the Cantonment.

The Lieutenant-Governor is further pleased under the provisions of Section 10 of Act XX of 1856, to declare that the tax in Division A shall be assessed according to the circumstances and the property to be protected, and that the tax in Division B shallbe assessed at the rate of Re. 1-4-0 per cent, on the annual value of the houses and grounds situated therein.

This supersedes Punjab Government Notification No. 2479, dated the 6th of October 1884, in the Department of Finance and Commerce.

(*No.* 3017, *dated* 1*st December* 1884, *Punjab Gazette of* 4*th idem, Part I, page* 1175).

## CHAPTER V.

### SPIRITUOUS LIQUORS.

Unauthorized sale of spirituous liquor.

**14.** If, within any cantonment, or within any limits around such cantonment prescribed by the Local Government, any person not amenable to the Articles of War, or any sutler or camp-follower, knowingly barters, sells, or supplies, or offers or attempts to barter, sell, or supply, any spirituous liquor, wine or intoxicating drug to, or for the use of, any European soldier, or to, or for the use of any

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European or Eurasian being a camp-follower or a soldier's wife, without a written license from the Officer Commanding or from some person authorized by the Officer Commanding to grant such license, the person so bartering, selling or supplying, or offering or attempting to barter, sell, or supply, such liquor, wine, or drug, shall be liable on conviction to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months, or, in lieu of such fine or imprisonment, to the punishment of whipping, as prescribed for offences under Section 2 of Act No. VI of 1864 (*to authorize the punishment of whipping in certain cases*), subject to all the provisions of that Act.

NOTE.—Under the provisions of Section 14 of Act III of 1880 (The Cantonments Act, 1880), the Hon'ble the Lieutenant-Governor is pleased to extend the operation of Section 14 of the said Act (regulating the sale and possession of spirituous liquors) to a distance of four miles from the boundaries of the Cantonment of Murree, Cliffden and Kuldannah, and of the camps at Gharial and Thabba. (*Punjab Government Notification No.* 3054, *dated 5th December* 1884, *Punjab Gazette of* 11*th idem, Part I, page* 1214).

Presumption in case of second conviction.

**15.** If any person convicted of an offence under section fourteen is again convicted of an offence under that section, any spirituous liquor, wine, or intoxicating drug within such cantonment or limits which, at the time of the commission of such subsequent offence, belongs to him, or is in his possession, shall, without further proof, be deemed to be in his possession for the purpose of being supplied to European soldiers contrary to the provisions of this Act.

Penalty on certain persons having in possession within cantonments more than certain quantity of spirituous liquor, &c., without permit.

**16.** If within such cantonment or limits any camp-follower or military pensioner, or the wife or the widow of any soldier, camp-follower, or military pensioner, removes, conveys, or has, in his or her possession, any quantity of spirituous liquor or wine exceeding one seer or quart, without a permit to be signed by the officer in command, or such other officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to fine which may extend to fifty rupees, and for any subsequent offence to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months: provided that nothing in this section contained shall apply to any liquor brought into a cantonment for the private use of any commissioned officer.

Arrest of offenders under Section 14 or 16 and seizure of spirituous liquor, &c.

**17.** If any person subject to the provisions of this Act is found committing any offence contrary to section fourteen or section sixteen, any police-officer may immediately without warrant arrest such person, and also seize any spirituous liquor, wine, or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying, or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other officer having jurisdiction to punish the offender.

Confiscation of such liquor, &c.

**18.** In case of a conviction for any offence under section fourteen or section sixteen, the Cantonment Magistrate or other officer may adjudge any liquor, wine, or intoxicating drug in respect of which the accused is convicted, and any other spirituous liquor, wine, or intoxicating drug found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing, or concealing the same or

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any part thereof, to be confiscated; and such Magistrate or officer may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same is realized, to the person upon whose information such conviction takes place, or to the officer who has apprehended the offender or seized any of the goods adjudged to be confiscated.

Detention of property seized.

19. Anything seized under section seventeen in respect of which any person is charged with an offence under this Act, may be ordered to be detained until the person in whose possession the same has been seized is convicted or acquitted of the offence charged.

Disposal of property seized.

If such person is acquitted, anything so seized shall be restored; if he is convicted, such of the things only, if any, as are not adjudged by the Cantonment Magistrate or other officer to be confiscated shall be restored; the remainder shall be dealt with as confiscated.

Saving of articles sold or supplied for medicinal purposes.

20. The foregoing sections shall not apply to the sale or supply of any article for medicinal purposes by recognized medical practitioners, chemists, or druggists.

NOTES.—(*a*) The Lieutenant-Governor has extended the operation of * Sections 29 to 35 of Act XXII of 1864, both inclusive (regulating the sale and possession of spirituous liquors) to the following towns and places in the Punjab:—

I. A limit of seven miles round the Cantonment of Mian Mir.—(*Notification No.* 1626, *dated* 1*st December* 1865—*Punjab Gazette of* 7*th idem, page.* 751).

II. The Municipal limits of the city of Delhi.—(*Notification No.* 1126, *dated* 31*st August* 1866—*Punjab Gazette of* 6*th September* 1866, *page* 539).

III. To the municipal limits of Dharmsala and within the boundaries of all villages within a radius of five miles round the Fort of Kangra.—(*No.* 18, *dated* 5*th January* 1869—*Punjab Gazette of* 7*th idem*).

IV. The provisions of these sections have also been extended by the Lieutenant-Governor of the North-Western Provinces to that portion of the Meerut district lying on the left or east bank of the Jumna river, within a range of two miles from the city of Delhi; and the Cantonment Magistrate of Delhi is vested with the powers of a Magistrate within these limits for the enforcement of the said provisions of the law.—(*Notification by the Government of the North-Western Provinces, No.* 124, *dated* 25*th September* 1866—*Punjab Gazette of* 11*th October* 1866, *page* 614).

V. With the concurrence of the Government of the Punjab the Government of the North-West Provinces has appointed the Cantonment Magistrate of Delhi to be *ex-officio* Superintendent of Abkari within a tract of country on the left bank of the Jumna in the Meerut district to a distance of two miles from the boundaries of the Delhi Cantonment.—(*Notification of the Government of the North-West Provinces, No.* 44 *A., dated* 15*th February* 1865, *published in the Punjab Gazette of the* 25*th idem, page* 232).

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(*b*). The provisions of † Section 19 only have been extended to the following places:—

I. The city and civil station of Amritsar, including the Railway station.—(*Notification No.* 1591, *dated* 5*th November* 1867—*Punjab Gazette of* 7*th idem, page* 825).

II. The Municipal limits of the city of Mooltan including the Railway station.—(*Notification No.* 729, *dated* 29*th May* 1868—*Punjab Gazette of* 4*th June* 1868, *page* 546).

III. Civil station of Dalhousie and limits of certain adjoining villages.—(*No* 4002, *dated* 18*th October* 1877, *Punjab Gazette of* 25*th idem*).

(*c*). SS. 14-20 of the present Act have been extended to a distance of 4 miles from the boundaries of the Ferozepore Cantonment.—(*Notification No.* 2651, *dated* 16*th July* 1881, *Punjab Gazette of* 21*st idem*).

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* SS. 14-20 of this Act.

† S 14 of this Act.

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## CHAPTER VI.

### MUNICIPAL TAXATION.

General power of taxation.

**21.** The Local Government may, from time to time, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, impose in any cantonment any tax which, under any enactment in force at the date of such notification, can be imposed in any municipality, within the territories administered by such Government, and may, with the like sanction and by a like notification, abolish any tax so imposed.

NOTES.—(*a*).—Under the provisions of Section 21 of Act III of 1880 (The Cantonments Act), the Hon'ble the Lieutenant-Governor is pleased, with the previous sanction of the Governor-General in Council, to sanction the levy of a tax on houses in the Mecan Meer Cantonment at the following rates, *viz* :—

On houses and bungalows occupied by Europeans at a rate not exceeding 5 per cent. on the annual rental.

On houses in the Bazar at a rate ranging from (two) 2 annas per mensem up to a limit of Rupees (five) per mensem. (*Punjab Government Notification No.* 1529, *dated* 8*th June* 1883, *Punjab Gazette of* 14*th idem*).

(*b*). In exercise of the power conferred by Section 21 of Act III of 1880, and with the sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to authorize the imposition of a house tax, at the rate of 3 per cent. on monthly rentals in the Jhelum Cantonment, with the proviso that unoccupied buildings shall be exempted from taxation. (*No.* 1, *dated* 2*nd January* 1884, *Punjab Gazette of* 3*rd idem, Part I, page* 1).

(*c*). In exercise of the power conferred by Section 21 of Act III of 1880, and with the sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to authorize the imposition of a house tax at the rate of 5 per cent., on the yearly rental of all occupied houses in the Peshawar Cantonment.—(*No.* 971, *dated* 9*th April* 1884, *Punjab Gazette of* 10*th idem, Part I, page* 366).

(*d*). In exercise of the powers conferred by Section 21 of Act III of 1880, and with the previous sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to authorise the imposition of the following water-rates by the Cantonment Committee, Peshawar, in accordance with the provisions of Act XIII of 1884.

(i) A rate payable by all owners and occupiers of houses situated within the boundaries of the Sadr Bazar, to be assessed on the head of each house according to his position in life, provided no head of a house shall pay more than Rs. 2 or less than annas 2 per mensem.

(ii) A rate payable on all estates situated in the Cantonment taking water from the open main channel for garden and other purposes according to the following rates : On estates classed by the Cantonment Committee as first class, Rs. 4 per mensem each ; on estates classed by the Cantonment Committee as second class, Rs. 2 per mensem each.

These rates will be leviable from 1st April 1885.—(*No.* 701, *dated* 23*rd March* 1885, *Punjab Gazette of* 26*th idem, Part I, page* 215).

(*e*). In exercise of the powers conferred by Section 21 of Act III of 1880, and with the sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to authorize the imposition on all occupied buildings in the Rawalpindi Cantonment of a house-tax at the rate of Rs. 5 per cent on the annual value, as defined in Section 39 (2) of Act XIII of 1884.—(*No.* 1365S., *dated* 17*th September* 1885, *Punjab Gazette of same date Part I, page* 684).

(*f*). In exercise of the powers conferred by Section 21 of Act III of 1880, and with the sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to impose on all occupied buildings in the Jutogh Cantonment, in the Simla District, a house tax at the rate of Rs. 7 per cent. per annum on the annual value as defined in Section 39 (2) of Act XIII of 1884.—(*No.* 270, *dated* 29*th January* 1886, *Punjab Gazette of* 4*th February* 1886, *Part I, page* 39).

(*g*). In exercise of the powers conferred by Section 21 of Act III of 1880, and with the sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to impose on all occupied buildings in the Ferozepur Cantonment a house-tax at the rate of Rs. 7. (seven) per cent. per annum on the annual value, as defined in Section 39 (2) of Act XIII of 1884.—(*No.* 1314, *dated* 19*th May* 1886, *Punjab Gazette of* 20*th idem, Part I, page* 288).

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(*h*). In exercise of the powers conferred by Section 21 of Act III of 1880, and with the sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to impose on all occupied buildings in the Mooltan Cantonment a house-tax at the rate of Rs. 7½ per cent. per annum on the annual value as defined in Section 39 (2) of Act XIII of 1884. (*No.* 1544, *dated* 11*th June* 1886, *Punjab Gazette of* 17*th idem, Part I, page* 333).

(*i*). In exercise of the powers conferred on him by Section 21 of Act III of 1880, and with the sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to sanction the imposition of the following taxes in the Murree Cantonment:—

(1). A house-tax on all occupied houses other than those in the bazars at the rate of Rs. 3 per cent. on the annual value as defined in Section 39 (2) of Act XIII of 1884.

(2). A tax on all buildings in the bazars at the rate of Rs. 5 per cent. on the annual value as defined in Section 39 (2) of Act XIII of 1884.

(3). A conservancy tax on all domestic servants living outside bazar limits, at the following rates: (*a*) in the case of residence extending to over 30, but under 90 days, Re. 1 for each servant; (*b*) in the case of residence extending to 90 days and over, Rs. 2 per each servant. (*No.* 705*A.*, *dated* 31*st March* 1887, *Punjab Gazette of same date, Part I, page* 202).

(*j*). In exercise of the powers conferred on him by Section 21 of Act III of 1880, and with the sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to impose on all occupied houses and buildings in the Sabathu Cantonment a house-tax at the rate of Rs. 7½ per cent. per annum on the annual value, as defined in Section 39 (2) of Act XIII of 1884, in substitution for the chaukidari-tax at present levied in that Cantonment. (*No.* 1371, *dated* 22*nd June* 1887, *Punjab Gazette of* 23*rd idem, Part I, page* 319).

(*k*). The levy of Octroi in the Cantonment of Nowshera, subject to the rules framed under Act IV of 1873, for the levy of the same tax in municipal towns has also been sanctioned, and a schedule of octroi duties published. See Notifications Nos. 60 and 61, dated 22nd February 1883, *Punjab Gazette* of 1st March 1883, Part I, pages 81, 82.

(*l*). A tax at the rate of Rs. 10 per cent. per annum on the annual value (as defined in Section 39 (2) of Act XIII of 1884), has been imposed on all occupied buildings in the Balun, or Dalhousie Cantonment. (*No.* 645, *dated* 28*th March* 1888, *Punjab Gazette of* 29*th idem, Part I, page* 355).

(*m*). In exercise of the powers conferred on him by Section 21 of the Cantonment Act. III of 1880, and with the previous sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to impose in the Cantonments mentioned in the first column of the schedule hereto annexed the rates of octroi sanctioned for each place, respectively, in the Punjab Government Notifications mentioned in the second column of the schedule.

SCHEDULE.

| | |
|---|---|
| Umballa Contonment ... | Notification No. 623, dated 13th May 1876. |
| Jullundur „ ... | „ „ 226, dated 23rd June 1879. |
| Ferozepore „ ... | „ „ 201*d.*, dated 5th July 1880, as amended by Notification No. 232 dated 16th April 1884. |
| Meean Meer „ ... | „ „ 348, dated 16th December 1878. |
| Mooltan „ ... | „ „ 156, dated 3rd May 1879. |
| Siálkot „ ... | „ „ 135, dated 9th April 1879. |
| Báwalpindi „ ... | „ „ 1018, dated 19th June 1874. |
| Pesháwar „ ... | „ „ 52, dated 29th April 1878, as amended by Notification No. 1[illegible], dated 22nd March 1884. |

(*No.* 255, *dated* 23*rd April* 1888, *Punjab Gazette of* 26*th idem, Part IA., page* 83).

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(*n*). In exercise of the powers conferred on him by Section 21 of the Cantonment Act, III of 1880, and with the previous sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to impose in the Delhi Cantonment the rates of octroi sanctioned in Punjab Government Notifications No. 1257, dated the 13th July 1871, and No. 1712, dated 13th October 1874. (*No. 715, dated 24th September* 1888, *Punjab Gazette of 27th idem, Part I A., page* 198).

(*o*). In exercise of the powers conferred on him by Section 21 of the Cantonment Act, III of 1880, and with the previous sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to impose in the Attock Fort and Cantonment the rates of octroi sanctioned in Punjab Government Notification No. 1019, dated the 19th June 1874. (*No. 841, dated 7th November* 1888, *Punjab Gazette of 9th idem, Part I A., page* 224).

Power to provide for assessment and collection of taxes.

**22.** When any tax is leviable in a cantonment under section twenty-one, the Local Government may, from time to time, by notification in the official Gazette, apply or adapt to such cantonment the provisions of any enactment or rules in force at the date of such notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

NOTES.—(*a*). Under this section, Act IV of 1873 was extended to the Ferozepore Cantonment.—(*Notification No. 201A., dated 5th July* 1880—*Punjab Gazette of 8th idem*).

(*b*). Under the powers conferred upon him by Section 22 of Act III of 1880, the Hon'ble the Lieutenant-Governor is pleased, for the purpose of the assessment and recovery of the house-tax imposed in the Cantonment of Rawalpindi by Notification No. 1365S., of to-day's date, to apply to the said Cantonment the provisions of Act XIII. of 1884, (The Punjab Municipal Act, 1884), for the assessment and recovery of the tax mentioned in Section 39, sub-section (1), clause (*a*), sub-clause (1) of the said Act. (*No. 1366 S., dated 17th September* 1885, *Punjab Gazette of same date, Part I, page* 684).

(*c*). The Hon'ble the Lieutenant-Governor, in exercise of the powers conferred upon him by Section 22 of Act III of 1880 (The Cantonments Act), is pleased to extend the provisions of Sections 62, 63, 64, 65, and 66, of Act XIII of 1884 (The Punjab Municipal Act), relating to octroi. to the Cantonment of Naushahra. (*No. 622, dated 7th September* 1886, *Punjab Gazette of 9th idem, Part I A., page* 493).

For revised octroi rates for the above Cantonment, see No. 393, dated 16th July 1887, *Punjab Gazette* of 21st idem, Part I A., page 134.

(*d*). In exercise of the power vested in him by Section 22 of Act III of 1880 (The Cantonment Act), and with the concurrence of His Excellency the Commander-in-Chief, the Hon'ble the Lieutenant-Governor is pleased to apply to the Murree Cantonment the provisions of Sections 43 to 51 inclusive, Sections 59 to 61 inclusive, and Section 172 of Act XIII of 1884 (The Punjab Municipal Act) (*No. 1130, dated 19th May* 1887, *Punjab Gazette of same date, Part I, page* 280).

(*e*). In exercise of the powers vested in him by Section 22 of Act III of 1880 (The Cantonments Act), and with the concurrence of His Excellency the Commander-in-Chief, the Hon'ble the Lieutenant Governor is pleased to apply to the Sabathu Cantonment the provisions of Sections 43 to 51 inclusive, Sections 53 to 61 inclusive, and Section 172 of Act XIII of 1884 (The Punjab Municipal Act). (*No. 1706, dated 1st August* 1887, *Punjab Gazette of 4th idem, Part I, page* 467).

(*f*). If is hereby notified that, under Section 22 of Act III of 1880, and Section 47 of Act XIII of 1884, the Cantonment Committee of Murree has made the following Rules in the matter of the dates on which the taxes imposed under Notification of the Punjab Government, No. 705 A., dated the 31st March 1887, shall be payable :—

RULES.

1. The taxes on houses and buildings shall be payable to the Secretary of the Committee on or before the 1st October in the year 1887, and the 31st July in future years.

2. The conservancy tax shall be payable to the Secretary of the Committee within fifteen days from the expiry of the period of residence mentioned in the said Notification No. 705 A., dated 31st March 1887.

3. The aforesaid taxes shall be payable in lumps sums, not in instalments.

The above Rules have been confirmed by the Lieutenant Governor and shall come into force on the 23rd September 1887. In accordance with the directions of the Lieutenant-Governor given on this behalf they are hereby published in the *Punjab Government Gazette* during the interval between the date last aforesaid and the date of this Notification. (*Punjab Government Notification No. 2059, dated 14th September* 1887, *Punjab Gazette of 15th dem, Part I, page* 512).

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(*g*). It is hereby notified that, under Section 22 of Act III of 1880, and Section 47 of Act XIII of 1884, the Officer Commanding at Subathu, exercising the powers of a Cantonment Committee has made the following rule in the matter of the dates on which and the instalments in which the house-tax imposed under Notification of the Punjab Government, No. 1371, dated 22nd June 1887, shall be payable :—

RULE.

The house-tax shall be payable to the Station Staff Officer in three equal instalments on the following dates in each year, *viz.* :—

The first instalment on the 1st May ;

The second instalment on the 15th July ; and

The third instalment on the 1st November.

The above rule has been confirmed by the Lieutenant-Governor, and shall come into force on the 1st April 1888.

In accordance with the directions of the Lieutenant-Governor given on this behalf the rule will be published in six issues of the *Punjab Government Gazette* during the interval between the date last aforesaid and the date of this Notification. (*Punjab Government Notification No.* 2641, *dated* 13*th December* 1887, *Punjab Gazette of* 15*th idem*, *Part I*, *page* 638).

(*h*). In exercise of the powers conferred on him by Section 22 of Act III of 1880 (The Cantonments Act), the Hon'ble the Lieutenant-Governor is pleased to apply to the Umballa Cantonment the provisions of Sections 62 to 65, inclusive, of Act XIII of 1884 (The Punjab Municipal Act), conferring powers to search where octroi is leviable, to examine articles liable to octroi, and to recover octroi chargeable. (*No.* 364, *dated* 6*th June* 1888, *Punjab Gazette of* 7*th idem*, *Part I A*, *page* 110).

(*i*). In exercise of the powers conferred on him by Section 22 of Act III of 1880 (The Cantonments Act), the Hon'ble the Lieutenant-Governor is pleased to apply to the Cantonments named below the provisions of Sections 62 to 65, inclusive, of Act XIII of 1884 (The Punjab Municipal Act), conferring powers to search where octroi is leviable, to examine articles liable to octroi, and to recover octroi, chargeable—

Jullundur.

Ferozepore.

Mean Meer.

Mooltan.

Sialkot.

Rawalpindi.

Peshawar.

(*Notification No.* 462, *dated* 11*th July* 1888, *Punjab Gazette of* 12*th idem*, *Part I A.*, *page* 145).

(*j*). In exercise of the powers vested in him by Section 22 of Act III of 1880 (The Cantonment Act), and with the concurrence of His Excellency the Commander-in-Chief, the Hon'ble the Lieutenant-Governor is pleased to apply to the Mooltan Cantonment the provisions of Sections 43 to 51, inclusive, Sections 53 to 61 inclusive, and Section 172 of Act XIII of 1884 (The Punjab Municipal Act). (*Notification No.* 1935, *dated* 22*nd August* 1888, *Punjab Gazette of* 23*rd idem*, *Part I*, *page* 617).

(*k*). In exercise of the powers vested in him by Section 22 of Act III of 1880 (The Cantonment Act), and with the concurrence of His Excellency the Commander-in-Chief, the Hon'ble the Lieutenant-Governor is pleased to apply to the Jutogh Cantonment in the Simla District the provisions of Sections 43 to 51 inclusive, Section 53 to 61 inclusive, and Section 172 of Act XIII of 1884 (The Punjab Municipal Act). (*No.* 2084, *dated* 11*th September* 1888, *Punjab Gazette of* 13*th idem*, *Part I*, *page* 642).

(*l*). It is hereby notified that under Section 22 of Act III of 1880 and Section 47 of Act XIII of 1884, the Cantonment Committee at Mooltan have made the following rule in the matter of the dates on which, and the instalments in which the house-tax imposed in that Cantonment under Notification of the Punjab Government, No. 1544, dated 11th June 1886, shall be payable :—

RULE.

The house-tax shall be payable to the Secretary to the Cantonment Committee not later than the 6th December 1888 for the period 1st April 1888 to 31st December 1888, and thereafter monthly in advance on the 1st of each month.

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The above rule has been confirmed by the Lieutenant-Governor and shall come into force on the 3rd December 1888. In accordance with the directions of the Lieutenant-Governor given on this behalf, the rule is hereby published in the *Punjab Government Gazette* during the interval between the date last aforesaid and the date of this notification. (*No.* 2575, *dated* 21*st November* 1888, *Punjab Gazette of* 22*nd idem, Part I, page* 738).

(*m*). It is hereby notified that, under Section 22 of Act III of 1880, and Section 47 of Act XIII of 1884, the Officer Commanding at Jutogh, exercising the powers of a Cantonment Committee, has made the following rule in the matter of the dates on which the *house tax* imposed in that Cantonment under Notification of the Punjab Government, No. 270, dated the 29th of January 1886, shall be payable:—

RULE.

The house-tax shall be payable to the Station Staff Officer not later than the 27th December 1888, for the period from 1st April 1888 to 31st of December 1888, and thereafter monthly on the 27th of the month for each month.

The above rule has been confirmed by the Lieutenant-Governor and shall come into force on 15th December 1888. In accordance with the directions of the Lieutenant-Governor given on this behalf, it is hereby published in the *Punjab Government Gazette* during the interval between the date last aforesaid and the date of this Notification. (*No.* 2645, *dated* 28*th November* 1888, *Punjab Gazette of* 29*th idem, Part I, page* 754).

Application of proceeds of taxes.

**23.** The proceeds of all taxes levied in any cantonment under section twenty-one shall, after defraying therefrom the cost of assessing and collecting the same, be applied in such cantonment, under the directions of the Local Government, to the maintenance of the police-force and the carrying out of measures under the rules made under section twenty-five.

Power to prohibit taxation in cantonments.

**24.** Notwithstanding anything contained in any enactment for the time being in force, the Governor-General in Council may, by an order in writing, prohibit the levy of the whole or any part of any tax in any cantonment, or exempt any person by name or in virtue of his office, or any class of persons, from the operation of any such tax, and may, by a like order, rescind any such prohibition or exemption.

NOTES.—(*a*). In exercise of the power conferred by Section 24 of Act III of 1880 (The Cantonments Act, 1880), the Governor-General in Council is pleased to declare that, in any cantonment situated in British India which may have been, or may in future be, brought under the operation of a Municipal Act, the following classes of persons shall, when on duty in such cantonment, be exempted from the operation of taxes of the following kinds:—

*Persons exempted.*

All persons exclusively in military employ or belonging to any department directly attached to the Army or to the Public Works Department, Military Branch, being persons subject to the Army Discipline and Regulation Act, 1879, or the Indian Articles of War.

*Taxes from the operation of which exemption is granted.*

(1) Municipal taxes on salaries.

(2) Municipal taxes on professions, trades, callings, offices, or appointments.

(3) Municipal taxes on horses, mules, or ponies kept for military duty.

(4) Municipal tolls leviable on any ferry or road in respect of animals or vehicles kept or used for military duty.

2. In further exercise of the power conferred by the same section, the Governor-General in Council is pleased to prohibit the levy, in any cantonment in British India, of any municipal tax whatsoever on * public property such as animals, or vehicles.

3. In this order the expressions "municipal tax," "municipal taxes" and "municipal tolls," include any tax or toll imposed by virtue of the provisions of a Municipal Act under the operation of which any cantonment may have been, or may in future be, brought.—(*Government of India No.* 163, *dated* 18*th November* 1881).

* *Vide* Punjab Government Notification No. 264, dated 13th July 1882—(*Punjab Gazette of* 20*th idem*), publishing Government of India Resolution No. 1—7086, dated 30th June 1882.

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(*b*). The Cantonment Committee of Meean Meer having applied for the extension to the Cantonment of the following bye-law to check evasion of payment of octroi, the Hon'ble the Lieutenant Governor is pleased to declare that the said bye-law shall come into force within the limits of the said Cantonment 30 days after the publication of this Notification :—

"No person shall *knowingly* convey or cause to be conveyed, or assist in conveying, any goods liable to any authorized Municipal tax within the limits of the above mentioned town, unless he has paid, or has previously tendered, to the proper officer charged with the collection of any such tax, the duty leviable upon such goods.

"Whoever abets within the meaning of Section 107 of the Indian Penal Code any breach of evasion of the terms of the above bye-law, shall be punishable with the same punishment as is provided in the case of the principal offender."

(*Punjab Government Notification No. 332, dated 25th September* 1883, *Punjab Gazette of 27th idem, Part I, page* 544).

## CHAPTER VII.

### SUBSIDIARY RULES.

Power to make cantonment rules.

**25.** The Local Government may, from time to time, make rules consistent with this Act to provide within the limits of any cantonment for the matters hereinafter mentioned.

Rules may be general or special.

The rules under this section may be general for all cantonments in the territories administered by the Local Government making the same, or special for any one or more of such cantonments, according as the Local Government directs.

NOTE.—For rules see Notes at end of the Act.

Rules to be confirmed by Governor-General in Council.

**26.** No rule made under section twenty-five shall have effect until the same has been confirmed by the Governor-General in Council. A copy of every such rule when so confirmed, in English and in the vernacular language chiefly in use, shall be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such other place as the Local Government or the Commanding Officer directs.

For what matters rules may provide.

**27.** The rules made under section twenty-five may provide for all or any of the following matters :—

1*st*—regulating, in cases in which the land within the limits of the cantonment is the property of Government, and the occupation and use of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed ;

2*nd*—maintaining proper registers of immoveable property within the limits of the cantonment, and providing for the registration of transfers of such property ;

3*rd*—regulating the manner in which houses within the limits of the cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of military officers ;

4*th*—regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the cantonment, or for carrying out any rules made under section twenty-five ; and the appointment of the necessary servants and establishments ;

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*5th*—the definition and prohibition of public nuisances ;

*6th*—the maintenance generally of the cantonment in a proper sanitary condition ; the prevention and cure of disease ; the management and regulation of the public roads, of conservancy and drainage ; the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited, of slaughter-houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations ;

*7th*—inspecting and controlling brothels and preventing the spread of venereal disease ;

*8th*—the supervision and regulation of public wells, tanks, springs, or other sources from which water is or may be made available for public use ;

*9th*—the execution and promotion of works of public utility and convenience ;

*10th*—the registration of deaths, and the making and recording observations and facts important for the public health and interest ;

*11th*—the imposition of penalties on persons convicted of the breach of any rule made under section twenty-five, and declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such rules and the manner in which the investigation shall be conducted ; provided that no penalty so imposed shall exceed a fine of fifty rupees, or imprisonment for eight days.

Trial of breaches of rules.

**28.** Breaches of any rules made under section twenty-five shall be triable by the Cantonment Magistrate, when there is such an officer ; but the Local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate.

There shall be no appeal in any case tried under this section ; but every person trying any such case shall, for the purposes of Chapter XXII of the Code of Criminal Procedure, be deemed to be subordinate to the High Court, the Court of Session, and the Magistrate of the District.

Fine how levied.

**29.** In every case in which an offender is sentenced to a fine for the breach of any rule made under section twenty-five, the amount may in case of non-payment be levied by distress and sale of any moveable property of the offender which may be found within the limits of the cantonment.

Imprisonment in case fine not levied.

If no such property sufficient for the payment of the fine can be found, the offender shall be liable to simple imprisonment for any term which may extend to one month.

Prosecutions, &c., under other enactments.

**30.** Nothing in this Act, nor in any rule made under section twenty-five, shall prevent any person from being prosecuted under any other enactment for any offence punishable under this Act, or from being liable under any other enactment to any other or higher penalty than is provided for such offence by this Act: Provided that no person shall be punished twice for the same offence.

Extension of rules as to brothels and venereal diseases.

**31.** Whenever it appears necessary for the protection of the health of the troops in any cantonment, the Governor-General in Council may extend to any place outside the limits of such cantonment, and in the vicinity thereof, all or any of the rules made for such cantonment for inspecting and

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controlling brothels and preventing the spread of venereal disease, and make any additional rules consistent with this Act for providing for the same matters, and may define the limits around such cantonment within which such rules or additional rules shall be in force.

Penalties for breach of rules in extended limits.

32. When such rules, with any additional rules made as aforesaid, are extended under section thirty-one to any place outside the limits of such cantonment, the Governor-General in Council may provide, in the manner prescribed in clause eleven of section twenty-seven, for the imposition of penalties for the breach of such rules and for prescribing the manner in which, and the persons by whom, breaches of such rules shall be inquired into or be cognizable.

Effect of cantonment rules on enactments previously in force.

33. Whenever, in any cantonment, rules have been made under section twenty-five, so much of any enactment as may be held to empower the Commanding Officer to make local regulations regarding matters other than military, shall cease to have any effect in such cantonment, and all local regulation for any cantonment which may have been made before the promulgation of the rules for such cantonment made under section twenty-five shall cease to have any effect.

Saving of jurisdiction of Courts-martial, &c.

34. Nothing in the foregoing sections shall be deemed to affect the jurisdiction or military authority of Courts-martial or of Commanding Officers of cantonments or of regiments, corps, or detachments under any Articles of War, or the provisions of any Statute for punishing mutiny and desertion of officers and soldiers in the service of Her Majesty in the East Indies; and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences.

Provided that, when a Cantonment Magistrate or other officer not being the Commanding Officer has been invested by the Local Government with power within the limits of any cantonment to dispose of cases under any rule made under section twenty-five, the Commanding Officer shall not exercise the powers described in clause (*c*) of Part III of the Indian Articles of War in respect of any cases arising under such rule when such rules have been passed for such cantonment under section twenty-five and penalties have been laid down for their infringement.

The said rules shall be held to be the rules mentioned in the said last mentioned clause, and so much of the same clause as declares the penalties which may be inflicted for breach of cantonment-regulations shall cease from that time to have any effect in such cantonment.

Power to prescribe rules as to expenditure of funds raised under Act XX of 1856.

35. The Local Government may, from time to time, prescribe rules for regulating the expenditure, for the general purposes of this Act, of any funds raised under the said Act No. XX of 1856. Such funds may be expended for the purpose of carrying out any measures under any of the rules made under section twenty-five or section thirty-one of this Act, in addition to or in lieu of the purposes described in section thirty-six of the said Act No. XX of 1856.

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NOTES.—(a). The following rules in regard to the imposition of taxes in Military Cantonments, and in regard to the regulation of the strength and cost of Cantonment Police have received the concurrence of His Excellency the Commander-in-Chief and are issued for general guidance :—

I.—CANTONMENT TAXATION.

Taxation in Military Cantonments can be imposed only under the provisions of Act III of 1880, or other legislative enactment on the subject in force at the time.

Proposals for new taxes, or for altering those in existence, shall be made by the Cantonment Committee through the Officer Commanding the station to the Quartermaster-General in India, by whom they will be referred, with the opinion and remarks of His Excellency the Commander-in-Chief, for the consideration and orders of the Local Government.

The Committee may refer the proposals beforehand to the Deputy Commissioner of the district, and this will ordinarily be desirable in the case of proposals connected with octroi taxation.

When the proposals are accepted by the Local Government, or, in cases in which such sanction is necessary, when the sanction of the Government of India has been obtained, the result will be intimated by the Local Government to His Excellency the Commander-in-Chief, and will be notified in the *Government Gazette*.

Any existing taxation in military Cantonments that has not been imposed with the sanction of the Local Government or of the Government of India should be reviewed by the Cantonment Committees ; and such representation as the circumstances of the case may require should be made by the Officer Commanding the station through the Quartermaster-General for the order of the Local Government.

II.—CANTONMENT POLICE.

The regular payment of the Cantonment Police is the first charge to be defrayed by the Cantonment Fund.

The administration of the Cantonment Police which is by law a portion of the police force of the province, is vested in the District Superintendent of Police, subject to the general control and direction of the Officer Commanding the station.

No increase or decrease in the strength and cost of the Cantonment Police shall have effect without the sanction of the Local Government.

Any proposals affecting the strength and cost of the Cantonment Police or for forming a Cantonment Police where none now exists, shall be referred by the District Superintendent of Police through his official superiors to the Local Government ; and shall ordinarily be accompanied by the recorded concurrence or opinion of the Officer Commanding the station.

The orders of the Local Government will be conveyed through the Police Department, and a copy will be forwarded at the same time to the Quartermaster-General for the information of His Excellency the Commander-in-Chief.

Where any new or increased charge on the Cantonment Fund on account of Cantonment Police is rendered necessary, the Local Government will communicate with the Quartermaster-General, in view to any remarks that His Excellency the Commander-in-Chief may desire to offer for the consideration of the Local Government before the final orders are given.

The duties described in the above rules as pertaining to the Cantonment Committee, will, if no such Committee has been formed, be performed by the Officer Commanding the station. In stations occupied permanently by the Punjab Frontier Force, reference will be made to the Brigadier-General Commanding the Force instead of the Quartermaster-General.—(*Punjab Government Notification No.* 2311, *dated* 17*th August* 1881—*Punjab Gazette of* 25*th idem*).

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(b). RESOLUTION.—His Excellency the Governor-General in Council now directs that until further orders, and so long as the amounts are unimportant, the proceeds of royalties on mines and quarries within Cantonment limits shall be credited to Cantonment Funds throughout British India.—(*Government of India No.* 776, *dated* 28*th May* 1880).

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(c). The following rules and regulations for the administration of Cantonments in the Punjab, framed under the provisions of Section 19, Act XXII of 1864, having received the sanction of the Right Hon'ble the Governor-General in Council, were published for general

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information in the *Punjab Gazette* of 28th March 1867, pages 234—245, as Notification No. 759, dated 25th March 1867, and are still applicable under S. 2 of the present Act :—

CHAPTER I.

*General Provisions.*

Present rules to be applicable to all Cantonments unless otherwise ordered; and additional special rules to be made for any Cantonment when required.

1. Unless it shall be otherwise ordered, the present rules and regulations shall be held to be applicable to all Cantonments in the Punjab, provided that, in, the case of the Cantonments of the Punjab Frontier Force, the authority herein vested in the Commander-in-Chief shall vest in the Lieutenant-Governor. Such other additional special rules and regulations will be made, in accordance with the provisions of Act XXII of 1864, for any Cantonment, as may from time to time be necessary.

Amendment of rules and regulations.

2. Whenever the Officer commanding the Cantonment, or the Cantonment Committee shall be of opinion that any of the rules and regulations of the Cantonment should be amended or rescinded, or that any new rules and regulations should be made, a report will be made to the Commander-in-Chief, who, if he think fit, will make such reference to the Local Government as the matter may appear to require.

CHAPTER II.

*The Cantonment Committee and Cantonment Fund.*

Appointment of Cantonment Committee.

1. There will be appointed in every Military Cantonment, in which the Commander-in-Chief shall so order, a Committee, called the Cantonment Committee. The constitution of the Committee will ordinarily be as follows, but the Commander-in-Chief, with the concurrence of the Local Government, will make any alterations therein which may for any reason seem desirable :—

| | |
|---|---|
| The Officer Commanding the Cantonment ... ... | *President.* |
| The Sanitary Officer of the Cantonment ... ... | *Members.* |
| The Executive Engineer .. ... ... ... ... | *Members.* |
| The Magistrate of the District ... ... ... ... | *Members.* |
| The Civil Surgeon* . ... ... ... ... ... | *Members.* |
| The Cantonment Magistrate ... ... ... ... | *Member and Secretary.* |

The Commander-in-Chief will appoint any other persons, not more than three in number, to be members of the Committee. Unless it shall be otherwise specially ordered, the Cantonment Magistrate will be Secretary to the Cantonment Committee, and will keep all accounts and records.

[NOTES.—(*a*). Under the provisions of Chapter I, Section 1, and Chapter II, Section 1, of the rules and regulations for the administration of Military Cantonments, published in Notification No.759, of 25th March 1867, the Lieutenant-Governor has made the following alterations in the constitution of the Cantonment Committees of the Punjab Frontier Force :—

1. Instead of the Cantonment Magistrate, the Station Staff Officer will be Secretary to the Committee.

2. It shall be lawful for the Magistrate of the District to delegate his duties, as Member of the Cantonment Committee, to one of his Assistants.—(*Notification No. 761, dated 25th March 1867—Punjab Gazette of 28th idem, p. 282*).

(*b*). The following extracts from the Quarter-Master-General's Circulars, Nos. 1C. and 2C., dated 11th February 1867, relating to Cantonment Committees under Act XXII of 1864 were published for general information in the *Punjab Gazette* of 4th April 1867, *p. 283.*—(*Notification No. 865, dated 3rd April 1867*).

*Extract,—No. 1 C.*

The Quarter-Master-General is directed, with reference to Government Order No 21 dated 24th September 1866 to promulgate the following list of Cantonments at which, under

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* Notification No. 3037, dated 11th September 1872—*Punjab Gazette of 19th idem.*

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the operation of Act XXII of 1864, Cantonment Committees are to be formed, and those at which the powers of the Committee are to be exercised by Commanding Officers, namely :—

PUNJAB.

CANTONMENTS.

| *Divisions.* | *Committees.* | *Commanding Officers.* |
|---|---|---|
| *Meerut division* ... ... | Delhi. | |
| *Sirhind division* ... ... | Umballa ... ... ... | Ludhiana. Phillour. Kasauli. |
| | Jullundur ... ... ... | Sabathu. Dagshai. |
| *Lahore division* ... ... | Mian Mir, (including fortress of Lahore). | Dharmsala, (Bhagsu). |
| | Ferozepore... ... ... ... | Kangra. |
| | Mooltan ... ... ... ... | Bakloh. |
| | Sialkot ... ... ... ... | Govindgarh. |
| *Peshawar division* ... | Peshawar ... ... ... ... | Shabkadar. Michni. Abuzai. |
| | Rawalpindi ... ... ... | Naushahra. |
| | Murree ... ... ... ... | Attock. Campbellpur. Saidan Bauli. |

*Extract,—2 C., dated 11th February* 1867.

The Quarter-Master-General is directed, with reference to Government Order No. 210, dated 24th September 1866, to promulgate the following instructions for the nomination of the extra members of Cantonment Committees under the operation of Act XXII of 1864, in the several divisions and districts of the Army, namely :—

All Commanding Officers of Regiments to be ext a members, but where there are more than three, that number only to be nominated monthly by rotation.]

Nature of duties of the Committee and of Commanding Officer.

2. The Cantonment Committee will be mainly a consultative body, appointed to advise and assist the Officer Commanding the Cantonment in those portions of his duties which are connected with matters that affect the public health, safety, and convenience. The Officer Commanding the Cantonment is responsible, so far as his authority extends, for insisting upon the due enforcement of the present rules and regulations.

To be entrusted with control and expenditure of Cantonment Fund.

3. Subject to the following rules, and to such other rules as shall be laid down by authority for its guidance, the Cantonment Committee will be entrusted with the control and expenditure of the Cantonment Fund, and will determine what officers and establishments are required for the service of the Cantonment, and will fix the salaries which are to be paid to such officers and establishments from the said Fund.

Distribution of executive duties among members.

4. The executive duties of the Committee shall be, as far as possible, distributed among the members, so that one member shall be specially responsible for certain duties. Any member may inspect any place, other than the interior of private houses, within the limits of the Cantonment.

Position with regard to the Committee of the Officer Commanding a division or district.

5. The Officer Commanding a division or a district will, in his capacity of Officer Commanding the head-quarters station of the military division or district under his command, be the President of the Cantonment Committee at the head-quarters station. In the event of his leaving the head-quarters station, the Officer who assumes command of the station during his absence will become President of the Committee. The Officer Commanding a division or district may also, whenever he shall think fit, act as President of any other Cantonment Committee at any other station within his division or district, during such time as he may be present therein, and while he shall so act, the Officer Commanding the station will act as a member of the Committee. It will also be the duty of the Officer Commanding the division or district to examine the records of the proceedings of the Committees, at his periodical inspections, and at such other times as he shall think fit.

Deputy Inspector-General of Hospitals and other Officers to be Members of all Committees.

6. The Deputy Inspector-General of Hospitals will be a member of every Cantonment Committee formed under these rules in the division or district. The President and members of the Sanitary Commission for Bengal, the Principal Inspector-General of the Medical Department, and the Inspector-General of Hospitals, Her Majesty's British Forces, will also be *ex-officio* members of all such Committees within the Bengal Presidency.

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Position with regard to the Committee of the Deputy Inspector-General of Hospitals.

7. If the principal medical officer of the Cantonment be the Deputy Inspector-General of Hospitals, residing at the head-quarters station of the division or district, he will, unless a separate Sanitary Officer be appointed or it be otherwise ordered, act as Sanitary Officer and member of the Cantonment Committee. In the event of his leaving the head-quarters station, the next senior Medical Officer will act as Sanitary Officer and member of the Committee during the absence of the Deputy Inspector-General

Changes in Committee to be published in station orders.

8. The names of all officers appointed members of the Cantonment Committee will be published in station orders, and in the event of the President or any member of the Committee leaving the Cantonment, the name of the officer appointed to act as his successor will be immediately published in similar manner.

If no Committee has been appointed, the Officer Commanding the Cantonment, if duly authorized, may exercise the powers of the Cantonment Committee.

9. In any Cantonment in which no Committee is appointed, the Commander-in-Chief, with the concurrence of the Local Government, may authorize the Officer Commanding the Cantonment to perform all or any of the functions and to exercise all or any of the authority given under these rules to the Cantonment Committee.

Cantonment Fund how formed.

10. There will be formed in every Cantonment a Fund called the "Cantonment Fund." The Fund will be formed from the following sources :—

*1st.*—Such portion of the proceeds of any taxes levied within the limits of the Cantonment under Act XXVI of 1850, or under Act XX of 1856, or other lawful authority, for municipal or local purposes, as shall be declared by lawful authority to be payable to the Cantonment Fund.

*2nd.*—Such portion of the surplus receipts from cattle pounds, established under Act III of 1857, or by other lawful authority, as shall be declared by lawful authority to be payable to the Cantonment Fund. *

*3rd.*—Such portion of the proceeds of fines and penalties levied within the limits of the Cantonment from persons convicted of breaches of the rules and regulations of the Cantonment made in accordance with Section 17 of Act XXII of 1864, or of such other fines and penalties as shall be declared by lawful authority to be payable to the Cantonment Fund.

*4th.*—Any sums derived from the sale of grass, fruit, trees, wood, and other produce, growing upon the parades, practice grounds, and all other public grounds within the limits of the Cantonment, not being grounds set apart by order of the Commander-in-Chief for other purposes, and any sums derived from the lease of the right of grazing upon such ground.

*5th.*—Any sums derived from licenses for slaughter-houses, markets, or public necessaries, from the sale of manure, litter, refuse, rubbish, and filth, or from other miscellaneous local sources, declared by these rules or by other lawful authority to be payable to the Cantonment Fund.

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* i. The following letter of the Government of India, Home Department, was published for general information in the *Punjab Gazette* of the 3rd September 1868, page 810 :—

"Doubts having been raised by some officers as to the legality of introducing Act III of 1857 into Cantonments, I am desired to point out that, as the Act is perfectly general in its application, there is no objection to the establishment of pounds in Cantonments under its provisions. The only difficulty in the way of the adoption of this course is the proviso contained in Section 4 of the Act, that pounds shall be under the control of the Magistrate of the District. To meet this I am to suggest that, when pounds are established in Cantonments, the local Governments and Administrations should issue such orders as without infringing the law, will give the actual management of these pounds to the Cantonment authorities, and provide for transferring to the Cantonment Funds the money realized in Cantonment pounds."—(*No. 55—3443, dated Simla, the 21st August 1868, from the Secretary to the Government of India, Home Department, to the Secretary to the Government of the Punjab*).

ii. With reference to the Orders of the Government of India, Home Department, No. 55—3443, dated 21st August 1868, published in the *Punjab Gazette* of the 3rd September 1868, it is hereby notified that the income from cattle pounds established by lawful authority in Military Cantonments in the Punjab shall be an asset of the Cantonment Fund, and that all expenditure on them shall be charged to that fund, the pounds being kept under the management of the Cantonment Magistrate, subject to the control of the Magistrate of the District as required in Act I of 1871.

2. This arrangement will have effect from the beginning of 1876-77, except in cases where it is already in force.—(*Notification No. 3734, dated 12th October 1875, Home Department*).

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*6th.*—Any sums that may be granted by the Government in aid of the general conservancy of the Cantonment, and any other sums that may be specially granted from the public revenues or from other local funds.

Purposes for which the Cantonment Fund may be expended.

11. The purposes for which the Cantonment Fund may be expended are the following:—

*1st.*—For the payment of Police and of the officers and establishments required for the maintenance of the Cantonment in a proper sanitary condition, or for other local purposes; for ensuring the enforcement of all rules and regulations laid down by lawful authority regarding matters that affect the public health, safety, convenience, and decency, and for observing and recording facts of sanitary importance and interest.

*2nd.*—For the construction, promotion and maintenance of works of public utility and convenience, such as works of drainage, paving, public necessaries, and urinals, water-supply planting trees, public slaughter-houses, markets, hospitals, and dispensaries, and public roads not being roads ordinarily made or maintained at the expense of the Government.

No expenditure to be incurred for other purposes.

12.—Except for the purposes stated in the last preceding rule, no expenditure shall be incurred from the Cantonment Fund without the sanction of the Commander-in-Chief and of the Local Government.

Meetings of the Committee.

13. The Cantonment Committee shall meet for the transaction of business at least once in every month, and as often as a meeting may be called by the Officer Commanding the Cantonment.

Who is to preside.

14. At every meeting the Officer Commanding the Cantonment shall preside, or in his absence the senior Military Officer present.

Meeting to be public.

15. Every meeting of the Cantonment Committee shall be public unless otherwise ordered, for reasons which shall be recorded in the proceedings, by the officer presiding at any meeting.

Quorum.

16. No business shall be transacted at a meeting unless at least three members be present.

Questions to be decided by majority.

17. Questions coming before the meeting will be determined by a majority of the votes of the members present, and in case of equality of votes, the officer presiding shall have a casting vote.

Officer Commanding the Cantonment to have a veto.

18. The Officer Commanding the Cantonment may place his veto upon any resolution of any meeting of the Committee, but in such case his reasons shall be recorded in the proceedings, and a copy thereof shall be forthwith sent for the information of the Commander-in-Chief.

Power of Commanding Officer in case of emergency to act in opposition to the Committee.

19. If the Officer Commanding the Cantonment consider any measure within the competence of the Cantonment Committee to be of essential importance for the public health, safety, or convenience, and a majority of the Committee refuse to agree to such measure, the Officer Commanding the Cantonment may refer the matter, through the Officer Commanding the division or district, for the orders of the Commander-in-Chief; or if he be of opinion that the matter is of such urgency that delay will be seriously prejudicial to the public interests, he may order such measure to be adopted, and may for this purpose exercise all the authority given under these rules to the Cantonment Committee. In the event of such orders being given by the Officer Commanding the Cantonment, his reasons shall be recorded on the proceedings of the Committee, and a copy thereof shall forthwith be sent for the information of the Commander-in-Chief, through the Officer Commanding the division or district.

Powers of Commander-in-Chief.

20. In all references made to the Commander-in-Chief under the preceding rules, the Commander-in-Chief will give such orders as he may think fit, or, if it appears to him necessary, will refer the matter for the orders of the Government.

Record of proceedings.

21. All proceedings of the Cantonment Committee will be regularly recorded, and it will be competent to any member to place on record his dissent from any decision of the Committee.

Permanent establishments how fixed.

22. The permanent establishments maintained in each Cantonment at the cost of the Cantonment Fund will be fixed by the Cantonment Committee with the sanction of the Commander-in-Chief; and no alterations can be made in the strength of such establishments without the sanction of the Commander-in-Chief.

Members may inspect books and accounts.

23. The books containing the proceedings and accounts of the Committee shall be open at all reasonable times to the inspection of any of the members.

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New works costing more than Rs. 200 how to be sanctioned.

24. No new work estimated to cost more than 200 rupees shall be undertaken at the charge of the Cantonment Fund, nor shall any temporary establishments be entertained, in addition to those that have been allowed for the service of the Cantonment, without the sanction of the Officer Commanding the division or district, except in case of actual emergency, when, if the Officer Commanding the Cantonment concur with the Cantonment Committee in considering the matter to be one of urgent necessity, he may authorize the immediate commencement of the work or the entertainment of the establishment required. In such case an immediate report of the circumstances which constituted the emergency will be sent for the information of the Officer Commanding the division or district, who will pass such orders as he may consider fit. If the total estimated cost of such new work or temporary establishment shall exceed 500 rupees, the matter shall be reported for the orders of the Commander-in-Chief. No establishment shall be considered temporary which is required for more than three months. Nothing in these rules is to be construed into a permission to carry out in portions any new works or any alterations, the cost of which in the aggregate will exceed the sums the expenditure of which may be sanctioned under the present rule.

Annual estimates to be prepared.

25. At the time appointed by the Local Government for the preparation of the Local-Fund budget estimate for the year, the Cantonment Committee will cause to be prepared an estimate of the probable income of the Cantonment Fund and of the expenditure therefrom.

And submitted to Commander-in-Chief and Local Government.

26. The estimate of income and expenditure will be submitted through the Quarter-Master-General for the orders of the Commander-in-Chief, who will transmit it, with such remarks and recommendations as he may think necessary, to the Local Government, in order that it may be incorporated with the Local Fund estimates of the province. The Local Government will accept the recommendations of the Commander-in-Chief so far as financial considerations will admit.

Special grants by Local Government.

27. In passing orders upon the estimate, the Local Government will state, for the information of the Commander-in-Chief, what special assignments, if any, are placed at the credit of the Cantonment Fund, in addition to the ordinary permanent sources of income, either as general grants-in-aid, or as special grants for specific works or objects from the State or from other Local Funds.

Lump sum may be entered in estimate for miscellaneous purposes.

28. The Cantonment Committee may enter in the annual estimate a lump sum to be applicable during the year for miscellaneous purposes under these rules.

Application for additional grants in cases of emergency only.

29. Except under very unusual circumstances, the sum at the disposal of the Committee for expenditure in any year is strictly limited by the amount granted by the orders passed on the review of the budget estimate of the year. If, at any time, the Cantonment Committee should consider it absolutely necessary that some additional grant should be made, a special report of the circumstances will be submitted for the orders of the Commander-in-Chief, who will, if he think fit, communicate with the Local Government on the subject. In cases of great emergency a copy of the report of the Committee may be sent direct to the Local Government.

Allotments of funds may be modified.

30. With the sanction of the Commander-in-Chief, the Cantonment Committee may modify the allotments of funds approved in the orders passed upon the budget estimate; and, with the same sanction, the lump sum placed at their disposal for miscellaneous purposes may be increased by transfer from other allotments.

Power of Commander-in-Chief to sanction expenditure.

31. No sanction given by the Commander-in-Chief to expenditure from the Cantonment Fund will be subject to review by the Local Government, except on the ground of illegality or financial irregularity.

Works costing more than 200 rupees.

32. No engineering work estimated to cost more than 200 rupees shall be undertaken without a proper design and estimate approved by the Engineer member of the Cantonment Committee, subject, if the Committee so desire, to a reference to the Superintending Engineer. Works of this class estimated to cost more than 2,000 rupees shall require the approval of the Superintending Engineer to the design and estimate.

Statement of expenditure to be submitted to Commander-in-Chief.

33. A half-yearly statement of the actual expenditure incurred from the Cantonment Fund will be submitted by the Cantonment Committee to the Quarter-Master-General, for the information of the Commander-in-Chief, on such dates and in such form and degree of detail as the Commander-in-Chief shall require.

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Statements to be forwarded to Government of India.

* 34. The Commander-in-Chief will cause to be forwarded to the Government of India in the Military Department, through the Controller of Military Accounts, Bengal, an abstract statement of the estimated income and expenditure of all the Cantonment Funds, after his review of the same, with such observations as he may think fit.

Preparation, &c., of accounts.

35. After the accounts of actual expenditure shall have been prepared in each Province, an abstract thereof will be forwarded from the Local Fund Account Department to the Commander-in-Chief, by whom a copy will be sent to the Government of India in the Military Department, with any remarks thought necessary.

Rules regarding form of accounts, &c., to be laid down by Local Government.

36. The Local Government will lay down special rules for the guidance of the Cantonment Committee on the following points :—

(1). As to the mode of collecting and depositing in safe custody the Cantonment Fund.

(2). As to the mode of withdrawing from the public treasury, or other place of deposit, the funds required to meet the disbursements of the Committee.

(3). As to the forms in which the accounts of all receipts and expenditure shall be kept and shall be rendered to the Local Government.

(4). As to the system of audit of the actual expenditure.

Returns to be furnished.

37. The Cantonment Committee will furnish such periodical returns and reports as may, from time to time, be prescribed.

All matters of sanitary importance to be laid before the Committee.

38. It will be the duty of the Officer Commanding the Cantonment, of the Principal Medical Officer, and of the other members of the Committee, as well as of all other persons residing in the Cantonment, to bring to the immediate notice of the Cantonment Committee every matter of importance affecting the health of the troops, or of the public, which may come to their notice.

Weekly reports to be submitted by Commanding Officers of Regiments to be laid before the Committee.

39. The weekly reports regarding matters which affect the public health which the Commanding Officers of Regiments are required to submit to the Officer Commanding the Cantonment, will be regularly laid before the Committee.

Weekly reports to be submitted by other officers.

40. The following officers will submit a weekly report to the Officer Commanding the Cantonment to the effect that the parts of the Cantonment over which they have control, and for which they are responsible, have been inspected, and are kept in a proper sanitary state, or when necessary, they will state the defects the removal of which is required; these reports will be regularly laid before the Cantonment Committee :—

The Chaplain, regarding the state of the enclosures of the Church or Chapel, and of the burial grounds.

The Executive Engineer and Barrack Master regarding all public establishments and works under their charge.

The Commissariat Officer, regarding the Bakery, Slaughter-house, Cattle-yards and other establishments under his charge.

The Cantonment Magistrate, regarding the general conservancy, and sanitary administration of the Sadr Bazar and of all parts of the Cantonment for the maintenance of which in a proper sanitary condition he is responsible.

Monthly report to be furnished by Committee.

41. The Cantonment Committee will report monthly on the sanitary state of the Cantonment generally, for the information of the Officer Commanding the division or district.

## CHAPTER III.

*Offences affecting the public health, safety, convenience, and decency, punishable under the rules and regulations of the Cantonment.*

Penalty for breach of rules and regulations.

1. Any person who within the limits of the Cantonment shall commit a breach of any of the rules and regulations contained in this Chapter, shall be liable under clause II, Section 19 of Act XXII of 1864, to a fine not exceeding fifty rupees, or to imprisonment not exceeding eight days with or without labor.

* As amended by Notification No. 1204, dated 11th May 1882—(*Punjab Gazette of 18th idem*).

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Depositing dirt in public roads, &c.

2. No person shall throw or put or permit his servants to throw or put any dirt, refuse rubbish, or filth of any description, in any road, street, or public place, or on any waste or occupied public ground, or into any sewer or drain, except in such places and in such manner and at such time as shall be fixed by the Cantonment Magistrate with the approval of the Cantonment ommittee.

Allowing sewage to flow on public road.

3. No person shall cause or allow the water of any sink, sewer, privy, urinal, cess-pool or drain, or any other offensive liquid matter belonging to him, or being upon his premises, to run, drain, or be thrown or put upon any road, street, or public place, or into any surface drain in any road, street, or public place.

Removal of night soil along public roads.

4. Except within such hours and by such route as may, from time to time, be fixed by public notice by the Cantonment Magistrate, with the approval of the Cantonment Committee, no person shall remove any night soil or any other noxious or offensive matter along any road or thoroughfare within the limits of the Cantonment, and whether such hours have been fixed or not, no persons shall use for any such purpose any cart, carriage, or other receptacle or vessel not having a covering proper for preventing the escape of the contents thereof, or of the stench therefrom. If in the course of removing night soil or other noxious or offensive matter, any such matter shall fall upon any road or thoroughfare, the person, or persons who are engaged in affecting such removal shall well and carefully sweep and cleanse the place on which such matter shall have fallen, and shall effectually remove such sweeping therefrom. No person shall suffer to stand or remain, or shall place or set down, in any public place or thoroughfare any cart, carriage, receptacle, or vessel for the removal of night soil or any other noxious or offensive matter, for any longer time than shall be necessary.

Construction of private latrines.

5. The owner of any house, building, or premises within the limits of the Cantonment to which, in the opinion of the Cantonment Committee this rule may properly be applied, shall cause to be constructed, within a reasonable time after due notice has been given to him by the Cantonment Magistrate, for the use of the persons residing upon the ground appertaining thereto, a latrine or latrines according to such plans as may be prescribed or approved by the Cantonment Committee.

Removal of dirt from premises, and provision of receptacles.

6. Every owner or occupier of any house, building, or premises, within the limits of the Cantonment, hall cause to be removed therefrom, with such precautions, and at such times, as shall from time to time be ordered, all dirt, filth, refuse, rubbish, or noxious or offensive matter, and shall provide receptacles for the temporary deposit of such dirt, filth, refuse, rubbish, or matter in such manner and in such places as may be prescribed or approved by the Cantonment Magistrate with the sanction of the Cantonment Committee.

Keeping dirt on premises.

7. No owner or occupier of any house, building, or premises, within the limits of the Cantonment, shall allow to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, filth, refuse, rubbish, or noxious or offensive matter, in or upon the roof of any such house, or building, or in any out-house, yard, or ground attached to and occupied with such house, building, or premises, or shall suffer such receptacle to be in a filthy or noxious state, or shall neglect to employ proper means to remove the filth therefrom, and to cleanse and purify the same.

Filthy premises, &c.

8. No owner or occupier of any house, building, premises, or land, within the limits of the Cantonment, whether tenantable or otherwise, or of any private drain, privy, or cess-pool, shall suffer the same, or any part thereof, to be in a filthy or unwholesome state, or over-grown with rank and objectionable vegetation, or shall suffer any offensive smell to proceed from the same, and every such owner or occupier shall cleanse, white-wash, or purify the same as the case may require, when called upon to do so by the Cantonment Magistrate.

Privies to be shut out from public view.

9. The owner or occupier of any house, building, or land having a privy on his premises shall have such privy shut out by a sufficient roof, wall, or fence, from the view of persons passing by, or residing in the neighbourhood, and except with the permission of the Cantonment Magistrate, given with the approval of the Cantonment Committee, when no nuisance will be caused thereby, no owner or occupier shall keep any privy with a door or trap door opening on to any street.

Houses unfit for human habitation.

10. If, in consequence of the want of proper means of drainage or ventilation or privy accommodation, or other sufficient reason, any house, building, or premises shall be declared by the Cantonment Magistrate, with the sanction of the Cantonment Committee, unfit for human habitation, and he shall prohibit its use for such purpose, no owner or occupier of such house, building, or premises, shall use or suffer the same to be used for

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such purpose until, in the opinion of the Cantonment Committee, the causes rendering it unfit for human habitation have been removed.

Spreading infection of any disease.

11. No person shall do, within the limits of the Cantonment, any act which he knows or has reason to believe to be likely to spread the infection of any disease. This rule shall not apply to persons performing or causing to be performed the operation of vaccination.

Cultivation of prohibited crops.

12. No person shall cultivate within the limits of the Cantonment any crop which is prohibited by the Cantonment Committee, or by the Officer Commanding the Cantonment, on sanitary or other grounds.

Trimming hedges and trees, and destroying trees.

13. Every owner or occupier of any grounds within the limits of the Cantonment shall trim or prune the hedges and trees thereon in such manner as the Cantonment Committee may, from time to time, prescribe; and no person shall cut down or destroy any trees of mature growth, whether on private premises on otherwise, without the sanction of the Cantonment Committee.

Keeping swine.

14. No person shall keep any swine within the limits of the Cantonment, except with the permission, signified in writing through the Cantonment Magistrate, of the Cantonment Committee, and under such restrictions as the Committee shall think fit to impose.

Keeping animals so as to be a nuisance

15. No person shall keep any animals so as to be a nuisance or injurious to health, or in any place in which, in the opinion of the Cantonment Committee, such animals cannot be kept without danger to the public health or convenience.

Keeping unlicensed public latrine.

16. No person shall keep any latrine or urinal for public use within the limits of the Cantonment, unless he shall have received permission in writing from the Cantonment Committee through the Cantonment Magistrate, nor unless he shall observe all rules laid down regarding the construction and management of public latrines and urinals.

Performing offices of nature in places other than those appointed.

17. When, in the opinion of the Cantonment Committee, a sufficient number of latrines and urinals has been provided for the use of the inhabitants of the Cantonment, and due notice of the intention to enforce this rule has been given by the Cantonment Magistrate, no person shall perform the offices of nature in any other places within the limits of the Cantonment than such as may be appointed, whether on public or private ground.

Committing nuisance on public ground.

18. No person shall commit a nuisance by easing himself in or by the side of or near to any public road or thoroughfare or place, or by indecently exposing his person.

Bathing in prohibited places.

19. No person shall bathe in any public place, within the limits of the Cantonment, the use of which for such purpose has been prohibited by the Cantonment Committee, or at times at which bathing in such place has been prohibited by the said Committee.

Bathing in place set apart for other sex.

20. No person of one sex shall bathe in any public bathing place, within the limits of the Cantonment, if such place has been set aside by the Cantonment Committee for the use of persons of the other sex.

Diseased persons not to bathe in public bathing places.

21. No person suffering from any contagious disease shall bathe in any public bathing place within the limits of the Cantonment.

Defiling the water used for public purposes.

22. No person shall construct or keep any latrine, urinal, or place for the deposit of filth or refuse, in the vicinity of any river, spring, tank, reservoir, well, or other source from which water is derived for public use, within the limits of the Cantonment, or shall do any act which shall corrupt or foul such water so as to render it less fit for the purpose for which it is ordinarily used.

Washing animals, clothing, &c., in prohibited places.

23. No person shall wash or cleanse or cause to be washed or cleansed in any public road, or thoroughfare, or in, or upon, or by the side of any river, spring, tank, reservoir, well, or other source from which water is derived for public use, within the limits of the Cantonment, any animal, or any wool, cloth, or wearing apparel, or any utensils for cooking or other purposes, or leather, or skins of any animals, or other foul or offensive thing, in any places the use of which for such purposes shall be prohibited by the Cantonment Magistrate with the approval of the Cantonment Committee.

Killing animals except at public slaughter-house.

24. No person shall kill, within the limits of the Cantonment, any animal for public sale except at the public slaughter house, or at such other place as may be allowed by the Cantonment Magistrate with the sanction of the Cantonment Committee.

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Allowing slaughter-house or markets to be in a filthy state.

25. No owner, or occupier or farmer of any place used as a slaughter-house or market, within the limits of the Cantonment, shall keep or allow the same to be kept in a filthy or unclean state, or suffer any offensive smell to arise therefrom, or shall neglect to carry out any of the rules laid down for the management of slaughter-houses or markets.

Slaughtering diseased animals.

26. No owner or occupier of any place used as a slaughter-house, within the limits of the Cantonment, shall slaughter or suffer to be slaughtered therein any diseased or unsound animals, and every owner or occupier of such place, in case of any diseased or unsound animal being brought thereto, shall forthwith give information thereof to the Cantonment Magistrate.

Allowing nuisance in market.

27. No owner, occupier, or farmer of any market, within the limits of the Cantonment, shall knowingly allow the commission of any nuisance within such market.

Markets to be provided with proper places of retirement.

28. Every owner, occupier, or farmer of any market, to which, in the opinion of the Cantonment Committee this rule ought to be made applicable, shall, within a reasonable time, to be fixed by the Cantonment Magistrate, after he shall have received notice to do so, provide such places of retirement for the purposes of nature as, in the opinion of the said Committee, may be necessary for the cleanliness and health of the said market.

Allowing exposure in market of unwholesome articles of food.

29. No owner, occupier, or farmer of any market, shop, or stall, within the limits of the Cantonment, shall permit to be exposed for sale or admit or permit to remain therein, any article intended for food or drink for man, which is noxious or unfit for use as food or drink for man, and he shall forthwith cause any such article to be removed.

Sale of unwholesome food or drink.

30. No person shall knowingly sell as food or drink for man, or offer or expose for such sale or keep in his possession for the purpose of such sale, any article which is noxious or unfit for use as food or drink for man.

Adulterating food or drink.

31. No person shall adulterate any article of food or drink so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink.

Selling pork.

32. No person, within the limits of the Cantonment, shall sell any pork except under such conditions as may be prescribed by the Cantonment Committee.

Burying or burning corpses in prohibited places.

33. No person shall bury, or cause to be buried, or shall burn, or cause to be burned, any corpse in any place within the limits of the Cantonment, if the use of such place as a burial or burning ground has been prohibited by lawful authority.

Depth of graves.

34. No person shall bury, or cause to be buried, any corpse in any burial-ground, within the limits of the Cantonment, in a grave not constructed of masonry which shall be less than six feet deep, or in a grave constructed of masonry which shall be less than four feet deep.

Distance between graves.

35. No person shall make or cause to be made a grave in any such burial-ground at a less clear distance than three feet from any other existing grave.

Graves to be made only in prescribed lines or situations.

36. No person shall make or cause to be made a grave in any such burial ground in any other lines or situations than those which may be marked out by competent authority for that purpose.

Corpses to be reduced to ashes.

37. No person when burning, or causing to be burnt, any corpse in any burning ground, within the limits of the Cantonment, shall permit the same or any part thereof to remain without being completely reduced to ashes, or to be removed until the same be so reduced.

Corpses to be burnt within four hours after arrival at burning-ground.

38. Every person who shall bring, or convey, or cause to be brought or conveyed, any corpse to any such burning ground, shall burn or cause the same to be burnt within four hours after its arrival at the said burning-ground.

Throwing corpses into rivers.

39. No person shall throw any corpse into any river, within the limits of the Cantonment, when such practice shall have been declared by the Cantonment Magistrate, with the approval of the Magistrate of the District to be a public nuisance.

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Offensive or obnoxious trades.

* 40. No person shall use any place, within the limits of the Cantonment, for any of the following purposes, if such use of such place has been declared by the Cantonment Magistrate, with the sanction of the Cantonment Committee, to be a nuisance, and has been prohibited as such, namely, as a butcher's shop, or for melting tallow, or for boiling offal or blood, or for making soap, oil-boiling, dying, or as a tannery, brick, pottery, or lime kiln, or for any manufactory or place of business from which offensive or unwholesome smells arise, or as a yard or depôt for hay, straw, wood, or coal.

Quarrying stone and cutting wood or grass on public ground.

41. No person shall quarry stone or kunkur, or dig up bricks, or cut wood or grass, on any public ground, except in places which may be set apart for such purposes by the Cantonment Committee.

Depositing building materials, or making excavations in public roads.

42. No person shall deposit any building materials, or make a hole or excavation, in any road, thoroughfare, or public place, without the permission in writing of the Cantonment Magistrate, given with the approval of the Cantonment Committee, and when such permission is granted to any person, he shall at his own expense, whenever the Cantonment Magistrate may so direct, cause such materials, or such hole or excavation, to be sufficiently fenced and enclosed, until the materials are removed, or the hole or excavation is filled up, or otherwise made secure, and shall cause the same to be sufficiently lighted during the night.

Excavations, &c., in private or public ground.

43. No person shall make any tank, hole, or excavation, in any private or public ground, of a character which appears to the Cantonment Committee to be objectionable on sanitary or other grounds.

Dangerous places to be repaired or enclosed.

44. The owner of every building, tank, well, hole, or other place within the limits of the Cantonment, the repair, protection, or enclosure of which is necessary for the prevention of danger to the public, shall cause the same to be repaired, protected, or enclosed so as to prevent danger therefrom.

Making roofs or external walls of inflammable materials.

45. No person shall make or suffer to remain any external roof or wall of any hut or other building of grass, leaves, mats, or other such inflammable materials, in any place within the limits of the Cantonment in which the use of such materials for such purpose shall have been prohibited by the Officer Commanding the Cantonment or by the Cantonment Magistrate, with the approval of the Cantonment Committee.

Causing obstruction by building, &c., in public roads.

46. No person shall build any wall, or erect or set up any fence, rail, or post, or cause any other obstruction, encroachment, or injury in any public road or thoroughfare, or in or over any drain, sewer, or aqueduct.

Inflammable materials, &c., near public buildings.

47. No person shall stack or collect dry grass, straw, or other inflammable materials, or place mats, thatched huts, or cooking places within one hundred yards of any barrack or stable, or other public building having a thatched roof, or in any other place in which the collection or placing of inflammable materials or buildings shall be prohibited by the Officer Commanding the Cantonment, or by the Cantonment Magistrate, with the approval of the Cantonment Committee.

Displacing pavement of public roads.

48. No person shall displace, take up, or make any alteration in the pavement or roadway, or fences or posts, of any public road or thoroughfare without the consent in writing of the Cantonment Magistrate given with the approval of the Cantonment Committee.

Repair of boundaries.

49. Every person shall keep in proper repair the boundary walls, fences, or other enclosures of his estate or premises.

Rebuilding houses and huts.

50. Every person intending to build or rebuild any house or hut within the limits of the Cantonment shall give previous notice in writing to the Cantonment Magistrate, and shall obey all rules and regulations which may be laid down by the Cantonment Committee, with respect to the sufficiency of the space to be left about such buildings or huts to secure a free circulation of air, or with respect to their ventilation or drainage.

* *Vide* Notification No. 913, dated 7th September 1886, *Punjab Gazette* of 9th idem, page 488.

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Erecting buildings in objectionable situations.

51. No person shall make any new permanent or temporary building, hut, shed, enclosure awning or chabutra, in any situation in which such building or other construction shall be declared by the Cantonment Magistrate, with the sanction of the Cantonment Committee, to be objectionable on sanitary grounds, or on account of causing encroachment or obstruction to a public thoroughfare.

Rash or negligent driving or riding.

52. No person shall drive or ride any animal, or drive any vehicle, within the limits of the Cantonment, in a manner so rash or negligent as to indicate a want of due regard for the safety of others, or shall drive except upon the proper side of the road in meeting and passing other vehicles.

Driving vehicles without sufficient light.

53. No person shall drive within the limits of the Cantonment any vehicle at any time between three quarters of an hour after sunset and one hour before sun-rise, without a sufficient light, except when, in the opinion of the Cantonment Magistrate, there may be sufficient moon-light to render such light unnecessary.

Training animals.

54. No person shall train, or break, or lead out for exercise any animal, within the limits of the Cantonment, except in such places and at such times as may be allowed by the Officer Commanding the Cantonment.

Taking elephants, &c., along public roads.

55. No person shall take elephants, camels, or loaded carts, along any public road within the limits of the Cantonment, during such times as the use of such road for such purposes shall have been prohibited by the Officer Commanding the Cantonment.

Suffering ferocious dogs to be at large, and keeping dangerous animals.

56. No person shall suffer to be at large, within the limits of the Cantonment, any ferocious dog without a muzzle, and no person shall keep any dangerous animals, such as tigers, bears, &c., unless securely caged.

Picketting animals and collecting carts, &c.

57. No person shall picket animals or collect carts on any public ground, or shall use such ground as a halting place for vehicles or cattle of any description, unless the use thereof for such purpose shall be prescribed or permitted by the Officer Commanding the Cantonment.

Causing obstructions by vehicles or animals in public road.

58. No person shall cause any obstruction in any thoroughfare by causing or permitting any vehicle or animal to remain therein longer than is required for loading or unloading, or for taking up or setting down passengers, or shall leave any vehicle or animal in such a manner as to cause inconvenience or damage to the public.

Exposing articles for sale on public road.

59. No perso shall expose any articles for sale upon any stall, booth, or otherwise, so as to cause obstruction in any thoroughfare.

Beating drums or tom-toms.

60. No person shall beat a drum or tom-tom, or blow or sound any instrument at any time or in any place which shall be prohibited by the Officer Commanding the Cantonment, or by the Cantonment Magistrate.

Discharging fire-arms, fire-works, &c.

61. No person shall discharge any fire-arms or air-gun, or fire-works, or send up any fire-balloon, or light any bon-fire in or near any public road or thoroughfare, except with the permission of the Officer Commanding the Cantonment.

Destroying lamp-posts, &c.

62. No person shall destroy, injure, or disturb any sign-board or sign-post, or any lamp-post, lamp-bracket, or lamp in any public road or thoroughfare, or extinguish any light therein, without due authority.

Begging, exposing deformities, or being drunk or riotous.

63. No person in any public road, thoroughfare, or place, shall beg or apply for alms, or expose or exhibit any sores, wounds, bodily ailment, or deformity, with the object of exciting charity or of obtaining alms, or shall be drunk or riotous.

Cruelty to animals.

64. No person shall cruelly beat, abuse, or torture any animal

Processions and music in the streets.

65. No person shall disobey any rules made by lawful authority for regulating the conduct of assemblies and processions in the public roads or thoroughfares, or with regard to the use of music in the streets.

Permitting disorderly behaviour in places of public resort.

66. No person being the keeper of any house or place of public resort or entertainmen shall knowingly permit drunkenness or other disorderly behaviour in such house or place, or shall suffer any gaming therein or shall permit prostitutes or persons of notoriously bad character to meet or remain therein.

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67. No person shall keep or use, or knowingly permit to be kept or used, any place as a common-gaming house, or shall in any manner assist in conducting the business of any place so used, or shall game or be present for the purpose of gaming in any such place, or shall game in any public street, place, or thoroughfare.

Public gaming.

68. Every owner of any house, building or premises, or other immoveable property within the limits of the Cantonment, not residing within the Cantonment, or in its immediate vicinity, shall, within one month after these rules have been declared to be in force, or within such time as may be specially ordered by the Cantonment Magistrate, appoint a duly authorized agent, resident within the Cantonment, or in its immediate vicinity, who shall be answerable for the observance of all the present rules and regulations which refer to the owners of houses or other property as aforesaid.

Appointing agents.

The Governor-General in Council has directed that the following clause be added to the Cantonment Regulations.

"The head of any house or family in which a death may occur, shall, within 24 hours, report, or cause to be reported to the Cantonment Magistrate, or, in his absence, to the Officer Commanding the station, the fact of such death, and also the cause to which the death is believed to have been due." (*Notification No. 6045, dated 15th June 1869—Gazette of India of 19th idem*).

## CHAPTER IV.

*Provisions for the enforcement of the rules and regulations of the Cantonment.*

Officer Commanding Cantt., Cantt. Committee, and Cantt. Magte. to see to the enforcement of rules and regulations.

1. It will be the duty of the Officer Commanding the Cantonment, of the Cantonment Committee, and of the Cantonment Magistrate, to take all lawful measures for causing the enforcement of the rules and regulations contained in the preceding chapter.

Actual execution of rules and regulations to be the duty of the Cantt. Magte.

2. Except when it shall be otherwise provided, the Cantonment Magistrate will be responsible for the actual execution, in the manner provided by law, of all the rules and regulations laid down for ensuring the maintenance of the Cantonment in proper sanitary condition, and for the prevention of nuisances.

Or of other officer, invested with powers under Section 20 of Act XXII of 1864.

3. All of the present rules which refer to the duties and responsiblities of the Cantonment Magistrate will be applicable, unless it be otherwise ordered by the Local Government, to any person invested under Section 20 of Act XXII of 1864, with powers to try breaches of the rules and regulations of the Cantonment.

General conservancy establishment what to consist of, and how fixed.

4. The establishment maintained in each Cantonment, under the Cantonment Magistrate, for the general conservancy and sanitary administration will vary in strength according to circumstances. It will ordinarily consist of one or more conservancy sergeants, or Inspectors of nuisances, with the necessary sanitary police and other subordinates.

Establishment to be paid from Cantonment Fund.

5. The cost of the general conservancy establishment will be defrayed from the Cantonment Fund.

General executive management rests with the Cantonment Magistrate.

6. Except when it shall be otherwise provided, the Cantonment Magistrate will be the executive head of the establishments entertained at the charge of the Cantonment Fund, and the management of the general conservancy and executive sanitary administration of the Cantonment will rest with him, subject to the general control of the Officer Commanding the Cantonment, and of the Cantonment Committee.

Duties of the general conservancy establishment.

7. The duties of the general conservancy establishment consist in—the carrying into effect all arrangements connected with the conservancy of the bazars, and of every part of the Cantonment, the conservancy of which is not provided for by means of regimental or other special establishments: the removal, to the places set apart for the purpose, of all filth and rubbish from the public roads and streets, from public latrines, slaughter-houses and other places, and from receptacles provided for filth and rubbish from public or private premises; and generally the execution of all the rules and regulations laid down by lawful authority for the protection of the public health.

General duties of Cantonment Magistrate.

8. It will be the duty of the Cantonment Magistrate personally to inspect all parts of the Cantonment at least once in every month, especially those parts of which the sanitary supervision is important, and to require his subordinates frequently to do the same; to enforce strictly in every part of the Cantonment the observance of all sanitary rules and regulations that have been laid down; to carry into effect all necessary measures within his own authority, and to make to the Officer Commanding the Cantonment, and to the Cantonment Commit-

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tee, an immediate report of every case in which the orders of superior authority may be required.

Establishments to be appointed, &c., by Cantonment Magistrate.

9. Except when otherwise provided, all servants belonging to the general conservancy establishment of the Cantonment will be entertained, suspended or dismissed under the orders of the Cantonment Magistrate alone.

Use of Commissariat cattle for conservancy purposes.

10. The use of Commissariat cattle, if any are available at the station, will be allowed for any conservancy purposes on which the executive Commissariat Officer may consider their employment unobjectionable. The expenses of tending and feeding the cattle when thus employed will be chargeable to the Barrack Department or to the Cantonment Fund, as the case may be.

Provision to be made for daily cleansing of streets, &c.

11. The Cantonment Magistrate shall provide, in such manner as may be approved by the Cantonment Committee, for the daily surface cleansing of all streets, roads, and public places of every description within the limits of the Cantonment, for the daily collection and removal of all filth, refuse, and rubbish of every description, for preventing the deposit thereof in any places not specially assigned for the purpose, and for regulating the times and manner of such collection, removal, and deposit.

Receptacles for dirt, &c., to be provided.

12. Places, or fixed or moveable receptacles, will be provided in such situations as the Cantonment Magistrate, with the approval of the Cantonment Committee, may appoint, in which all filth, refuse, and rubbish of every description from public or private premises, houses, or buildings is to be periodically removed, and in which all cattle, carts, and implements required for such removal and for other purposes of conservancy, shall be kept.

Failure of owner of premises to construct latrines and receptacles.

13. If the owner of any house, building, or premises, shall fail to cause to be constructed a latrine or latrines and to provide receptacles for the temporary deposit of dirt, filth, and refuse in the manner prescribed by these rules, the Cantonment Magistrate may cause such latrines or receptacles to be constructed or provided at the expense of such owner, and may recover such expenses by distress and sale of his personal property.

Manure, &c., removed at expense of Cantonment Fund to be considered public property.

14. All filth, rubbish, litter, and manure, which shall be removed at the expense of the Cantonment Fund, shall be held to be public property, and any sums that may be realised therefrom shall be credited to the Cantonment Fund.

Encouragement of vaccination.

15. The Cantonment Committee shall take such measures as, with the approval of the Local Government, it may consider desirable, for the encouragement of vaccination among the inhabitants of the Cantonment.

Appearance of epidemic or contagious disease.

16. It will be the duty of all medical officers, and of all persons residing within the Cantonment, to make known, without delay, to the Cantonment Magistrate, for the information of the Cantonment Committee the appearance of any epidemic or contagious disease which may be dangerous to the public health.

No general destruction of trees to be allowed.

17. No orders shall be given in the Cantonment for any general destruction of trees, on the ground of any sanitary advantages which it is supposed will follow therefrom, without the approval of the Commander-in-Chief. But this rule will not prevent the trimming, to a moderate and reasonable extent, of trees and hedges, or the removal of particular trees or portions of trees, when this is considered necessary by the Cantonment Committee.

Public latrines and urinals to be provided.

18. The Cantonment Committee shall cause a sufficient number of public latrines and urinals to be constructed for the use of the native troops, camp-followers, and inhabitants of the Cantonment, according to such plans as may be approved by the Local Government, and shall take the necessary measures for ensuring the maintenance at all times of such places in a proper state of cleanliness. Unless for special reason, no payment shall be demanded from any person making use of a public latrine or urinal.

Licenses to construct public latrines, &c.

19. The Cantonment Magistrate, with the approval of the Cantonment Committee, may grant, under any conditions which the Committee prescribe, a license to any person to construct a latrine or urinal for public use within the limits of the Cantonment, subject to the rules laid down in the last preceding paragraph.

Places may be set apart for supply of drinking-water, for bathing, &c.

20. The Cantonment Magistrate, with the approval of the Cantonment Committee, may set apart any place on the bank of any river, or any tanks, reservoirs or wells, within the limits of the Cantonment, not being private property, for the purpose of being used for the supply of drinking water, or for the inhabitants to bathe in, or for washing animals

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or clothes, or for any other purpose connected with the health, cleanliness, or comfort of the inhabitants, and the Committee may make rules for regulating all matters connected with the use of water for such purposes, and for regulating the time and places of bathing for persons of each sex, making due allowance for the habits and customs of the country.

Construction of public slaughter-houses and markets.

21. The Cantonment Committee shall, whenever it appear necessary, cause to be constructed, in accordance with such plans as may be approved by the Local Government, slaughter-houses and markets for the use of the inhabitants of the Cantonment, or may grant, under any conditions which the said Committee may prescribe, a license to any person to construct such slaughter-houses and markets, and may prohibit the slaughter of any animals for public sale in any places in which, in the opinion of the said Committee, such slaughter is objectionable, and shall take all necessary measures and lay down all necessary rules for maintaining at all times all slaughter-houses and markets in a proper state of cleanliness.

Inspection and seizure of unwholesome food and drink.

22. The Cantonment Magistrate and any officers duly empowered by him may, at all reasonable times, with or without assistants, enter into and inspect any market, building, shop, stall, or place used for the sale of food or drink for man, or as a slaughter-house, and may examine any food or drink or any animal which may be therein, and, in case any food or drink or animal appear to be intended for the food of man and to be unfit for such food, may seize the same; and if it appear to the Cantonment Magistrate, upon sufficient evidence, that such food or drink or animal is unfit for the food of man, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food. Such arrangements shall be made by the Cantonment Magistrate and by the Cantonment Committee as will ensure a constant and vigilant inspection of all food and drink, sold or offered for sale within the limits of the Cantonment.

Burial and burning grounds.

23. The Cantonment Magistrate, with the sanction of the Cantonment Committee, and with the approval of the Local Government, but not otherwise, may prohibit the use of any place within the limits of the Cantonment as a burial or burning ground, or with such sanction and approval may provide fitting places to be used for such purposes.

Unwholesome tanks, excavations, &c., to be filled up.

24. If it appear to the Cantonment Committee that any private tank, or hole, or excavation, or low marshy ground, or any waste or stagnant water, being within any private enclosure within the limits of the Cantonment, is injurious to health, or offensive to the neighbourhood, the Cantonment Magistrate may require, by notice in writing, the owner of the said premises to cleanse or fill up such tank, or hole, or excavation, or to drain off and remove such stagnant water; and if the owner fail to comply with the requisition within such time as shall be specified in the said notice, the Cantonment Magistrate may cause the necessary work to be executed at the expense of the person upon whom the notice was served, and may realize such expense by distress and sale of the personal property of the person aforesaid Provided that if the work required be so extensive that, in the opinion of the Cantonment Committee, it is unreasonable to throw the whole expense upon the owner or occupier, a portion or the whole of the expense may be defrayed from the Cantonment Fund.

Drain bridges to be made.

25. When paths or roads specially leading to any private estate or premises shall cross any line of drainage, the Cantonment Magistrate, with the sanction of the Cantonment Committee, may call upon the owner of such estate or premises to provide, within a reasonable time, proper drain bridges, on designs approved by the Executive Engineer, and if the person to whom notice is so given fail to comply therewith within such time as shall be specified in the said notice, the Cantonment Magistrate may, subject to the proviso in the last preceding paragraph, cause such drain bridges to be constructed at the expense of the person upon whom the notice was served, and may realize such expenses by distress and sale of the personal property of the person aforesaid.

Height of boundary walls and fences to be regulated.

26. The Officer Commanding the Cantonment, or, with the sanction of the Cantonment Committee, the Cantonment Magistrate may order that the boundary walls, hedges, or fences of estates and premises in any part of the Cantonment shall not exceed a certain specified height, and if the owner or occupier of such estate or premises neglect, after due notice has been given him, to carry out such order, the Cantonment Magistrate may order the necessary work to be performed at the expense of such owner or occupier, and may realize such expenses by distress and sale of his personal property.

Buildings may be set back.

27. When any building projecting beyond the regular limits of a public street has been taken down for repair, the Cantonment Magistrate, with the sanction of the Cantonment Committee, may order such building to be set back, provided that due compensation be made to the owner.

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Doors to open inwards.

28. In any bazár or public street within the limits of the Cantonment to which, in the opinion of the Cantonment Committee, this rule can properly be made applicable, the Cantonment Magistrate may order that all gates, doors, windows, or shutters, on the ground floors of any buildings shall be made so as not to open outwards excepting where, in the opinion of the Cantonment Magistrate, no obstruction shall be caused thereby; he may also order the removal or alteration of any roof-spout which he may consider to cause obstruction or annoyance to passers-by or otherwise; if such obstruction or annoyance shall be declared to exist, and the owner of the premises fail to cause the required alterations to be made within a reasonable time after notice has been given to him to do so, the Cantonment Magistrate may cause such obstruction or annoyance to be removed, or may cause the required alteration to be made at the expense of such owner, and realize such expenses by distress and sale of his personal property.

Projections and obstructions to be removed.

29. The Cantonment Magistrate, with the sanction of the Cantonment Committee, may give notice in writing to the owner or occupier of any house or building to remove or alter, within a reasonable time to be stated in the notice, any projection, encroachment, or obstruction which has been made in front of any building, if the same juts into, overhangs, or in any way encroaches upon, or is an obstruction to safe and convenient passage along any public street, or projects over any uncovered drain or sewer, or to repair any house, building, or wall, or anything affixed thereto, in any public street or thoroughfare which is in a ruinous state, or likely to fall, or in any way dangerous to the public or to passers-by. If the owner shall fail to comply with such injunction, the Cantonment Magistrate may cause the necessary work to be done at the expense of the person upon whom the notice was issued, and may realize such expenses by distress and sale of his personal property.

Untenanted buildings to be secured or enclosed.

30. If any building or land, by reason of abandonment, or of disputed ownership, or other cause shall remain untenanted, and thereby become a resort of idle and disorderly persons, or otherwise become a nuisance, the Cantonment Magistrate, with the sanction of the Cantonment Committee, may cause notice in writing to be given to the owner or to the person claiming to be the owner, if he be known, requiring him, within a reasonable time to be stated in the notice, to secure or enclose the same, and if such notice shall not be complied with, the Cantonment Magistrate may cause the necessary work to be done and the expenses shall be recoverable from the owner or from the person upon whom the notice was served, by distress and sale of his personal property.

Ruined buildings to be removed.

31. The Cantonment Magistrate, with the sanction of the Cantonment Committee, may give notice in writing to the owner of any ruined house or other ruined building situate within the limits of the Cantonment, and which, in the opinion of the said Committee, is objectionable upon sanitary grounds, or as causing obstruction or inconvenience to the public, to repair or remove the same within a reasonable time to be fixed in such notice. In the event of such owner neglecting or refusing to comply with such injunction the Cantonment Magistrate may take possession of the said buildings and may cause them to be removed and the ground to be cleared. In such case the owner shall be entitled to receive compensation for the value of the property removed, according to the law and the rules in force regarding compensation for land and property taken possession of for public purposes, after deducting the expenses incurred in the removal of the buildings and in clearing the ground.

Killing dogs.

32. The Cantonment Magistrate may, by order in writing to be affixed in such public places as he shall think fit, appoint from time to time certain periods within which any dogs found straying in the public roads, unless securely muzzled, or in any places beyond the enclosures of the houses of the owners of such dogs, may be killed.

Regulation of procession and music in streets.

33. The Cantonment Magistrate may, as occasion requires, and subject to the order of the Officer Commanding the Cantonment, regulate the conduct of all assemblies and processions on the public roads, or thoroughfares, within the limits of the Cantonment, and may prescribe the routes by which, and the times at which such processions may pass and may regulate the use of music in such roads and thoroughfares.

Police may arrest without warrant for breaches of certain rules.

34. Any police officer may take into custody without a warrant, any person who within his view commits a breach of any of the rules numbered as follows in Chapter III, namely, rules 2, 3, 4, 11, 17, 18, 19, 20, 21, 22, 23, 24, 26, 30, 31, 32, 41, 42, 48, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 67.

Procedure to be followed in inquiries and trials for breaches of rules, &c.

35. The procedure prescribed by the Code of Criminal Procedure shall be followed, so far as it can be, in all inquiries and trials for breaches of the rules and regulations of the Cantonment, made under Section 17 of Act XXII of 1864, excepting in respect of those matters for which special rules of procedure are laid down by the said Act XXII of 1864. There shall be no appeal from any order or judgment passed by a Cantonment Magis-

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trate under the said rules and regulations. If any person be invested by the Local Government under the provisions of Section 5 of Act XXII of 1864, with the powers of an Assistant Cantonment Magistrate,* the Local Government may direct by what aut hority appeals from the orders and judgments passed under the said rules and regulations by such Assistant Cantonment Magistrate shall be heard and determined. The provisions of Section 434 of the Code of Criminal Procedure shall be applicable to all orders or judgments passed by any officer under the said rules and regulations.

Issue and enforcement of injunction.

36. In any case arising under these rules in which the sanction of the Cantonment Committee is declared necessary to any proceeding by the Cantonment Magistrate, in which such Magistrate shall consider that immediate measures are necesary to be taken to prevent imminent danger or injury of a serious kind to the public, it shall be lawful for him, pending the determination of the Cantonment Committee, to issue such injunction and order as shall be required to obviate or prevent such danger or injury, and in default of the person to whom such injunction or order is issued forthwith taking all necessary measures ordered to be taken, the Cantonment Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or to prevent such injury, and no suit or action shall be entertained in respect of anything necessarily or reasonably done for that purpose.

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(*d*). Under the provisions of Section 36, Chapter II of the rules and regulations for the administration of Cantonments, published in Notification No. 759 of 25th March 1867, the Lieutenant-Governor has prescribed the following rules regarding the collection, custody, account, and audit of Cantonment Funds :—

I. All sums received on account of the Cantonment Fund will be deposited in the nearest civil treasury, at such intervals of time as the Accountant-General may direct.

II. The collections will be treated in the treasury accounts without classification, like ordinary local fund deposits.

III. Disbursements will be made by cheques drawn by the Secretary to the Cantonment Committee ; which cheques will be only valid for the month in which they are drawn.

IV. The following accounts will be kept by the Secretary to the Cantonment Committee :—

1. A Cash Book in which he will debit himself with the amount of all cheques drawn, and credit himself with the sums paid into the Government Treasury. This will be balanced at the close of each month, and the balance will represent the sum to credit of the Fund in the Government Treasury. This Cash Book will be laid before and audited by the Committee at their monthly meeting, the balance being checked by a report to be furnished by the Treasury Officer.

2. A Ledger in which the receipts and disbursements of the fund as shown in the Cash Book will be classified under one or other of the following heads :—†

* * * * * * * * * *

V. At the close of each official year the Cantonment Committee will submit, under the signature of the President of the Committee, an account of the receipts and expenditure of the year, with the details given in the ledger, to the Accountant-General for examination and transmission to Government.—(*Notification No* 760, *dated* 25*th March* 1867—*Punjab Gazette of* 28*th idem, p.* 245).

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(*e*). The Lieutenant-Governor has directed that in modification of clause 2, Article IV of the rules prescribed in Notification No. 760, dated 25th March 1867, the receipts and disbursements of Cantonment Funds shall be classified in the ledger kept by the Secretaries of Cantonment Committees in the manner laid down in the Circular letter of the Quarter-Master General of the Army, No. 90, dated 7th August 1867, *viz* :—

*Receipts.*

I. Taxes under Acts XXVI of 1850 and XX of 1856.
II. Cattle pounds.
III. Fines and penalties.
IV. Sale of grass, fruit trees, wood, &c.
V. License for sale of manure, litter, &c.
IV. Grants-in-aid of general conservancy and other purposes.

*Disbursements.*

I. Establishment :—
1 Police.
2. Cantonment Fund.

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* The Lieutenant-Governor has, under Section 5 of Act XXII of 1864, invested the Officers Commanding at Dagshai and Subathu with the powers of Assistant Cantonment Magistrates for the purpose of enforcing the provisions of the said Act.—(*Notification No.* 939, *dated* 7*th July* 1868—*Punjab Gazette of* 16*th idem, page* 668).

† This clause has been modified by Notification No. 893, dated 3rd July, 1879. *See* Note (*e*).

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3. General conservancy.
4. Latrine.
5. Bazar Conservancy.
6. Lock Hospital.
7. Station and Hospital garden.
8. Tending nurseries and trees.
9. Cemetery and Church compound.

II. Public Works.

1. Maintenance and repair of roads, &c.
2. Repair of latrines.

III. Miscellaneous :—

1. Conservancy, repair of carts, unguent, &c.
2. Office stationery, &c.
3. Public gardens, repair of well gear, seeds, &c.

Any items of receipt or expenditure not falling under the above headings should be separately shown and explained.

2. The accounts of Cantonment Funds for 1868-9, should be submitted classified as above.—(*Notification No.* 893, *dated 3rd July* 1869—*Punjab Gazette of 8th idem, p.* 899).

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(*f*). In continuation of the orders contained in Notification No. 760, dated 25th March 1867, the Lieutenant-Governor has directed that Cantonment Fund estimates shall be received in the office of the Military Secretary, and by him transmitted to the Secretary, Department Public Works, for incorporation with the Local Fund estimates of the Province ; and that the annual accounts shall, after examination by the Accountant-General, be transmitted to the Military Secretary who will furnish His Excellency the Commander-in-Chief with the abstract required in Chapter II, Section 35.—(*Notification No.* 805, *dated 23rd May*, 1867—*Punjab Gazette of 30th idem, p.* 471).

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(*g*). Rules passed by the Honorable the Lieutenant-Governor of the Punjab under Clause 7, Section 19 of Act XXII of 1864, and confirmed by the Right Honorable the Governor-General in Council.

* It shall be the duty of the Cantonment Committee to supervise the execution of the rules prescribed under clause 7, Section 19 of Act XXII of 1864. It shall be competent to the Committee to form a sub-committee for this purpose, and to entrust to such sub-committee, all or any of the duties imposed on the Committee by these rules, provided that the Magistrate of the district shall in every case be a member of such Committee or sub-committee.

2. Subject to the general control of the Commissioner of the Division in communication with the Officer Commanding the Cantonment, the Cantonment Magistrate, or other Officer invested under Section 20 of Act XXII of 1864, with powers to try breaches of the rules and regulations of the Cantonment, will be responsible for the actual execution of the rules made under clause 7, Section 19 of the said Act ; but it shall be competent to the Local Government to empower any other Officer to exercise the necessary authority for the execution of any or all of the said rules. The general control and management of Lock Hospitals and the disbursement of funds in connection therewith will rest with the Cantonment Committee and Officer Commanding, under existing rules for conservancy arrangements in Cantonment.

3. The public prostitutes in every Military Cantonment to which these rules have been declared by the Local Government to be applicable, shall be divided into two classes, *viz*: 1st, public prostitutes frequented by Europeans ;—2nd, public prostitutes not so frequented.

4. Unless it shall be otherwise ordered by the Local Government these rules shall be held to be applicable to public prostitutes of the first only of the two classes mentioned in the last preceding rule ; but it shall be competent to the Local Government to declare any or all of these rules to be applicable to both of the said classes.

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Mily. Dept. letter No. 863, dated 31st May 1875 to the Quartermaster-General.

* I. With the sanction of the Government of India, the following is to be added as the second clause of Rule I of the Lock Hospital Rules, framed under Section 19 of Act XXII of 1864 :—

"The Committee or sub-committee shall meet for the transaction of business at least once in every month, or as often as a meeting may be called by the Officer Commanding the Cantonment, regular minutes of the proceedings of each meeting being kept as a public record."—(*General Order, No.* 180, *dated 12th July* 1875).

II. The following addition to Rule I of the Rules framed under Clause 7, Section 19 of Act XXII of 1864, has been sanctioned by the Government of India :

"The District Superintendent of Police should also be appointed an Extra Member of the Lock Hospital Sub-Committee." (*Punjab Government Notification No.* 2335, *dated 20th June* 1878, *Punjab Gazette of 27th idem*).

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5. No woman known to be a public prostitute shall reside or practice her trade within the limits of the Cantonment, unless she shall first have her name registered in the manner provided by these rules; and no person shall keep a brothel within the same limits without having his or her name registered in like manner.

6. No woman, not being a registered prostitute, shall practice prostitution within the limits of the Cantonment.

7. No public prostitute shall reside, and no person shall keep a brothel in any place within the Cantonment in which the Cantonment Committee shall declare the residence of such prostitute or the establishment of such brothel to be prohibited.

8. Every public prostitute who wishes to be registered shall apply in person for that purpose to the Officer charged with the preparation of the register.

[By order of the Government of India, the following rule is to be added to those in force under clause 7 of Section 19, Act XXII of 1864].

8 A. Any woman reported under rule 29, and convicted of practising prostitution without being registered, shall, upon conviction, be entered in the register, and become liable to all the regulations prescribed for the observance of registered prostitutes.—(*No.* 830, *dated* 14*th October* 1870—*Punjab Gazette of* 20*th idem, page* 1061).

9. A register of public prostitutes shall be prepared in the form prescribed in schedule A of these rules, or in such other form as the Local Government may from time to time prescribe, and shall be kept in the office of the Cantonment Magistrate or other Officer charged with the execution of these rules. The register shall from time to time be revised, so that it may at all times show correctly all public prostitutes residing in the Cantonment.

10. A copy of the said register of entries and alterations which may from time to time be made therein, shall be furnished forthwith to the Officer in charge of the Lock Hospital, who shall, at all times, keep in his office a register corresponding in all respects with the register prescribed in the last preceding rule.

11. When any public prostitute applies to be registered under these rules, the abstract of regulations prescribed for her observance according to the form given in schedule C of these rules, or in such other form as the Local Government may from time to time prescribe, shall be read and explained to her, and if she shall signify her assent thereto, she shall be registered.

12. Any registered prostitute may at any time apply to have her name removed from the register, on the ground that she intends to cease to be a prostitute, and if the Cantonment Magistrate or other Officer as aforesaid shall be satisfied that she has truly stated such intention her name shall be removed from the register.

13. Every registered prostitute shall pay monthly to the Lock Hospital fund such sum not exceeding one rupee as may be determined by the Cantonment Committee. In case of non-payment, the amount may be levied by distress and sale of any moveable property of such prostitute, which may be found within the limits of the Cantonment; provided that no such sum shall be payable by any such prostitute while she may be under treatment in the Lock Hospital.

14. Every registered prostitute shall be furnished with a printed ticket, to be renewed annually, in the form prescribed in schedule B of these rules, or in such other form as the Local Government may from time to time prescribe. She shall also be furnished with a printed copy in English and in her vernacular language of the abstract regulations prescribed for her observance, and referred to in rule 11.

15. No registered prostitute shall transfer or lend her ticket to any other person on any account or for any purpose whatsoever.

16. Every registered prostitute shall present herself with her ticket for medical examination at the Lock Hospital or other place appointed for the purpose at such times, not less than once in every fortnight, as may be appointed by the Officer in charge of the Lock Hospital, unless she shall have been specially exempted by such Officer or by some person duly authorized by him or by the sub-committee from so presenting herself.

17. A register of all such medical examinations shall be kept by the Officer in charge of the Lock Hospital in the form prescribed in schedule D of these rules, and such examinations shall be recorded in the ticket of each registered prostitute.

18. Any registered prostitute who, on medical examination, shall be found to be affected with any venereal disease, shall be detained in the Lock Hospital until discharged as cured; and no such prostitute shall leave the precincts of such hospital except with the permission of the Officer in charge.

19. Any woman, not being a registered prostitute, who may present herself for treatment on account of any venereal disease, may, with the permission of the Officer in charge of the Lock Hospital, be received for treatment in such hospital, and such woman shall then be subject to the conditions contained in the last preceding rule.

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20 No sum on account of subsistence or treatment shall be taken from any registered prostitute while under treatment in the Lock Hospital, and such amount of subsistence allowance shall be given to every such patient from the Lock Hospital fund as may be determined by the Cantonment Committee.

21. It shall be competent to the Cantonment Magistrate or other Officer charged with the execution of these rules to give special authority to any Police Officer, or other person, to inspect any house inhabited by any registered prostitute within the limits of Cantonment, and every such prostitute shall, when required to do so, exhibit her ticket to such authorized Police Officer or other person.

22. It shall be competent to the Cantonment Committee to make special rules for the maintenance in a state of cleanliness of all houses occupied by registered prostitutes within the limits of the Cantonment, and for the provision therein of a sufficient supply of water and of proper means of ablution. When such rules have received the sanction of the Local Government, they shall be binding upon all such registered prostitutes, and breaches thereof shall be punishable in the manner provided by rule 32.

23. When any registered prostitute wishes to change her residence in the Cantonment, she shall signify her intention to the Cantonment Magistrate, or other officer as aforesaid; and subject to the conditions contained in rule 7, such change of residence shall be entered in the register and in the ticket of such registered prostitute.

24. Whenever any registered prostitute wishes to leave the Cantonment in which she has been registered permanently, or for a time, she shall signify her intention to the Cantonment Magistrate or other Officer as aforesaid, and a note thereof shall be made in the register, and in the ticket of such registered prostitute. If she intend to leave the Cantonment permanently, she shall, before her departure, deliver up her ticket to the Cantonment Magistrate or other Officer.

25. On the permanent departure from the Cantonment or the death of any registered prostitute being duly certified, her name shall be removed from the register.

26. No registry of any prostitute, or the possession of a ticket by such prostitute in any Cantonment, shall in any way authorize such prostitute to reside or practise her trade in any other Cantonment in which she has not been duly registered.

27. No registered prostitute or other woman shall publicly solicit any person within the limits of the Cantonment.

28. It shall be lawful for any Police Officer specially authorized for the purpose by the District Superintendent, to take into custody without a warrant any woman who, within his view, commits a breach of the last preceding rule.

29. Whenever any Police Officer shall have reason to believe that any woman, not being a registered prostitute, practises public prostitution within the limits of the Cantonment in contravention of rule 6, it shall be the duty of such Police Officer to report the name of such woman, and the circumstances of the case, to the District Superintendent of Police, who, if he be satisfied that there are sufficient grounds for so doing, shall report the same for the orders of the Cantonment Magistrate.

30. No notice of any report made under the last preceding section, or of any report received from any other person to a similar effect, shall be entered in the police diary prescribed by Section 154 of the Code of Criminal Procedure, or in any other permanent record; and no such report shall in any manner be made public unless the Cantonment Magistrate shall consider that sufficient grounds have been shown for taking further proceedings against such woman for a breach of the said rule 6. If the District Superintendent or the Cantonment Magistrate, as the case may be, shall consider that there are no sufficient grounds for further proceedings, such report and all record thereof shall forthwith be destroyed.

31. It will be the special duty of the Inspector General of Police, under Section 12 of Act V of 1861, to frame from time to time such orders and rules as he shall deem expedient for preventing abuse on the part of the Police, and for rendering it efficient in the discharge of its duties under these rules.

32. Any prostitute who shall be convicted of a breach of any of these rules shall be liable to a fine not exceeding 50 rupees, or imprisonment for eight days with or without labor, as provided in clause II, Section 19 of Act XXII of 1864.

33. It shall be competent to the Local Government to invest the Officer in charge of the Lock Hospital with power to punish breaches of rules 16, 18 and 19, provided that no penalty imposed by such Officer shall exceed a fine of five rupees, leviable in case of non-payment by distress and sale of any moveable property of the offender which may be found within the limits of the Cantonment.

34. Whenever any registered prostitute is convicted of a breach of any of these rules, a note of such conviction shall be made in the register prescribed by rule 9, and in the ticket furnished to such prostitute under rule 14.

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35. Any person keeping a brothel shall be responsible for the good order of the house and its inmates, and for those who frequent it.

36. No keeper of a brothel shall knowingly permit a prostitute to exercise her calling when diseased or without a ticket.

37. Any brothel-keeper who shall be convicted of a breach of the above rules, so far as they are applicable to brothel-keepers, shall be liable to the penalties prescribed in rule 32.

## SCHEDULE A.

(*Referred to in rule* 9).

REGISTER OF PUBLIC PROSTITUTES IN THE CANTONMENT OF

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|
| Register Number. | Name. | Name of father. | Caste. | Age. | Place of residence in cantonment. | Date of registry. | REMARKS. |
| | | | | | | | (Entries required under rules 12, 24, 25, and 34 will be made in this column). |

## SCHEDULE B.

(*Referred to in rule* 14).

TICKET OF REGISTERED PROSTITUTE IN THE CANTONMENT OF

Name

Caste

Registered Number

Place of residence in Cantonment

Date of registry }
Personal appearance }

| Year and Month. | DATES OF MEDICAL EXAMINATION AND SIGNATURE OF MEDICAL OFFICER. | | | | REMARKS. |
|---|---|---|---|---|---|
| | Date of inspection in first half of month. | Signature of Medical Officer. | Date of inspection in second half of month. | Signature of Medical officer. | |
| January ... | | | | | (In this column will be recorded all cases in which disease may be detected, dates of admission into or discharge from hospital, penalties incurred and the cause thereof, &c., &c. |
| February ... | | | | | |
| March .. | | | | | |
| April ... | | | | | |
| May ... | | | | | |
| June ... | | | | | |
| July ... | | | | | |
| August ... | | | | | |
| September... | | | | | |
| October ... | | | | | |
| November ... | | | | | |
| December ... | | | | | |

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SCHEDULE C.

(*Referred to in rule* 11).

ABSTRACT OF REGULATIONS TO BE OBSERVED BY REGISTERED PROSTITUTE No.

IN THE CANTONMENT OF

1. She shall obey all rules laid down by the Government under clause 7, Section 19 of Act XXII of 1864, and will be liable on conviction of a breach of any such rule to fine and imprisonment according to the provisions of the said Act.

2. If she desire to have her name removed from the register she shall apply to the Cantonment Magistrate.

3. She shall pay monthly to the Lock Hospital fund the sum of , except during such time as she may be under treatment in the Lock Hospital when such payment will cease.

4 She shall not transfer or lend her ticket to any other person on any account, or for any purpose whatsoever.

5. She shall present herself with her ticket for medical examination, at such time and place as may be appointed, unless specially exempted from so presenting herself.

6 If at any time she becomes affected with any venereal disease, she shall remain under treatment in the Lock Hospital until discharge. During such treatment she will receive subsistence allowance from the hospital fund, and will be liable to no charge on account of subsistence or treatment.

7. She shall allow the inspection of her house by any duly authorized Officer, and shall when required to do so, exhibit her ticket to such Officer.

8. She shall obey all rules laid down for maintaining her house in a state of cleanliness and for provision therein of water and means of ablution.

9. If she desire to change her place of residence or to leave the Cantonment, she shall signify her wish to the Cantonment Magistrate.

10. She shall not practise her trade in any other Cantonment in which she has not been duly registered.

11. She shall not publicly solicit any person.

12. She must renew her ticket annually.

SCHEDULE D.

(*Referred to in rule* 17).

REGISTER OF MEDICAL EXAMINATION OF REGISTERED PROSTITUTES IN THE CANTONMENT OF

Name

No. in Register of Prostitutes.

| Year and month. | Dates of medical examination and signature of Medical Officer. | | | | REMARKS. |
|---|---|---|---|---|---|
| January ... ... | | | | | (In this column will be recorded the result of all medical examinations). |
| February ... ... | | | | | |
| March ... ... | | | | | |
| April ... ... | | | | | |
| May ... ... | | | | | |
| June ... ... | | | | | |
| July ... ... | | | | | |
| August ... ... | | | | | |
| September ... ... | | | | | |
| October ... ... | | | | | |
| November ... ... | | | | | |
| December ... ... | | | | | |

The foregoing rules for the inspection and control of houses of ill-fame and for the prevention of the spread of venereal disease in Cantoments, framed under Section 17 of Act XXII of 1864, and sanctioned by the Government of India, were published for general information in the *Punjab Gazette* of 4th November 1869. With reference to rule 4, the Lieutenant-Governor has declared that these rules shall be applicable to every class of public prostitutes without distinction.—(*Notification No.* 3199, *dated* 26*th October* 1869—*Punjab Gazette of* 4*th November* 1869).

(*h*). The Lieutenant-Governor has, with the sanction of the Government of India, extended the rules and regulations for inspecting and controlling houses of ill-fame to the undermentioned Cantonments in the Punjab;—

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| | | | | |
|---|---|---|---|---|
| i. | Delhi, to a distance of four miles from the boundaries of Cantonments. | | | (*Notification No.* 1124, *dated* 13*th April* 1869—*Punjab Gazette of* 15*th idem*). |
| ii. | Umballa | ditto | ditto. | |
| iii. | Jullundur | ditto | ditto. | |
| iv. | Amritsar | ditto | ditto. | |
| v. | Sialkot | ditto | ditto. | |
| vi. | Ferozepore | ditto | ditto. | |
| vii. | Rawalpindi | ditto | ditto. | |
| viii. | Murree | ditto | ditto. | |
| ix. | Peshâwar | ditto | ditto. | |
| x. | Mooltan | ditto | ditto. | |
| xi. | Mian Mir, to a distance of six miles from the boundaries of Cantonments. | | | |
| xii. | Subâthu, over a tract included within a radius of four miles round the boundaries of the Military Cantonments. | | | (*Nos.* 3203, *dated* 26*th October* 1869—*Punjab Gazette of* 4*th November* 1869; *and* 817, *dated* 7*th October* 1870—*Punjab Gazette of* 13*th idem*). |
| xiii. | Kasauli | ditto | ditto. | |
| xiv. | Dagshai | ditto | ditto. | |

xv. Attock, to the tract included within a line drawn round the Cantonment at a distance of three miles from its boundaries.—(*No.* 3203, *dated* 26*th October* 1869, *and No.* 92, *dated* 28*th January* 1870).

xvi. Phillour.—(*No.* 3203, *dated* 26*th October* 1869—*Punjab Gazette of* 4*th November* 1869).

xvii. Military posts on the Murree and Abbottabad road.—(*No.* 249, *dated* 19*th February* 1873—*Punjab Gazette of* 20*th idem*).

xviii. Jatogh, in the Simla district.—(*No.* 3956, *dated* 2*nd November* 1874—*Punjab Gazette of* 5*th idem*).

xix. Naushahra, in the Peshawar district, to a distance of four miles from that portion of the Cantonment which lies on the right bank of the Kâbul river.—(*No.* 2867, *dated* 30*th July* 1874—*Punjab Gazette of* 26*th August* 1874).

(*i*). The Lieutenant-Governor, under Section 20 of the Act, has invested all Magistrates exercising full powers attached to the district of Jullundur with powers to try breaches of the said rules and regulations occurring beyond the limits of the said Cantonments and within the radius of four miles; and has authorized such Magistrates to exercise such powers independently of the Cantonment Magistrate.—(*No.* 169, *dated* 4*th February* 1870—*Punjab Gazette of* 10*th idem*).

(*j*). Similar powers were conferred upon Magistrates exercising full powers in the Rawalpindi district in respect of breaches of the rules occurring beyond the limits of the Cantonment and within the distance of four miles.—(*No.* 405, *dated* 22*nd March* 1870—*Punjab Gazette of* 24*th idem*).

(*k*). The Magistrate of Delhi and such of the Municipal Commissioners as are or may be invested with the powers of a Magistrate, or those of a subordinate Magistrate of the 1st class (now Magistrate of the second class), are invested with powers to try breaches of the rules and regulations occurring beyond the limits of the Cantonment of Delhi and within a distance of four miles.—(*No.* 235, *dated* 19*th February* 1870 - *Punjab Gazette of* 24*th idem*).

(*l*). The Assistant or Extra Assistant Commissioner for the time being attached to the outstations of Murree and Attock are invested with powers to try breaches of the rules and regulations occurring beyond the limits of the said Cantonment and within a distance of four miles and three miles respectively.—(*No.* 405, *dated* 22*nd March* 1870—*Punjab Gazette of* 24*th idem*).

(*m*). "Doubts having been entertained as to the powers of the ordinary criminal Courts to try and dispose of breaches of the rules made under clause 7 of Section 19 of Act XXII of 1864, for inspecting and controlling houses of ill-fame, and for preventing the spread of venereal disease, in cases where such rules are extended, under Sec 25 of the Act, beyond Cantonment limits; District Officers are informed, that, wherever these rules have been so extended, the ordinary criminal Courts have jurisdiction, under Section 21 of the Code of Criminal Procedure, to try and dispose of breaches of them occurring beyond the Cantonment boundary and within the limits to which the rules may be extended.

"2. It is also pointed out, with reference to the powers of the Police in such case that authority to enquire into, and take cognizance of breaches of these rules within Cantonment limits is granted to the Police by rules 21, 28 29 and 30.

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"These rules were amongst those extended beyond Cantonment limits with the sanction of the Government of India, by notification of this Government, No. 1124 of 13th April 1869.

"Accordingly, the power reserved by Sec. 26 of the Act to the Governor-General in Council, must be deemed to have been exercised by him, and the Police to have therefore the same authority within the extended limits, as within Cantonments."—(*Punjab Government Circular No.* 34—743, *dated* 24*th May* 1870).

(*n*). The procedure in force in many Military Cantonments in this province for the enforcement of the rules under the Cantonment Act (XXII of 1864) being irregular, the Hon'ble the Lieutenant-Governor has approved of a uniform procedure as enjoined in Notification No. 857of this date, to which your attention is specially directed.

No. 857.—*Notification.*—Under the powers granted in Section 40 of Act IV of 1872, the Lieutenant-Governor is pleased to invest in all Military Cantonments in the Punjab such members of the general conservancy establishment, as the several Cantonment Committees shall determine, with the powers of a Police Officer, for the cognizance of the offences described in Section 34 of Act V, 1861.—(*Circular No.* 12—856, *dated* 9*th March* 1876).

(*o*). The following Notifications detail and describe the boundaries of the Cantonments noted :—

Dalhousie. (*No.* 69, *dated* 5*th April* 1883, *Punjab Gazette of* 12*th idem, Part I, p.* 140).

Ghora Dhaka (Hazara district). (*No.* 152, *dated* 6*th September* 1884, *Punjab Gazette of* 11*th idem, Part I, p.* 894).

Bukloh. (*No.* 16, *dated* 4*th February* 1885, *Punjab Gazette of* 5*th idem, Part I, p.* 671).

Sunny Bank. (*No.* 40, *dated* 16*th March* 1885, *Punjab Gazette of* 18*th idem. Part I, p.* 137), *and No.* 863, *dated* 15*th December* 1886, *Punjab Gazette of* 16*th idem, Part I A., p.* 564).

Solon. *No.* 16, *dated* 10*th January* 1887, *Punjab Gazette of* 13*th idem. Part I, p.* 5).

Mooltan. *No.* 61, *dated* 10*th January* 1887. *Punjab Gazette of* 13*th idem. Part I, p.* 7).

Umballa. *No.* 1488, *dated* 10*th August* 1887, *Punjab Gazette of* 11*th idem, Part I, p.* 479).

The Hutted Camps at Khyra Gully, Kalabagh, Changla Gully, and Bara Gully. (*Nos.* 23—26 *dated* 20*th February* 1885, *Punjab Gazette of* 26*th idem, Part I, p.* 144—147).

Edwardesabad. (*No.* 83, *dated* 20*th May* 1885, *Punjab Gazette of* 4*th June* 1885. *Part I, p.* 394).

Kangra Fort. (*No.* 92, *dated* 7*th May* 1886. *Punjab Gazette of* 13*th idem, Part I, p.* 279).

Upper Dharmsala. (*No.* 1007, *dated* 11*th May* 1887, *Punjab Gazette of* 12*th idem, Part I, p.* 271).

Kasauli. (*No.* 883, *dated* 28*th May* 1888, *Punjab Gazette of* 31*st idem, Part I, p.* 431).

Cherat. (*No.* 1614, *dated* 21*st November* 1888, *Punjab Gazette of* 22*nd idem, Part I, p* 741).

Abbottabad. (*No.* 82, *dated* 14*th January* 1889. *Punjab Gazette of*, 17*th idem, Part I, p.* 25).

(*p*). With the concurrence of His Excellency the Commander-in-Chief, the four Cantonments known respectively as "the Murree Depôt," "the Cliffden Family Depot," "Sunny Bank" and "Kuldanna," all situate in the vicinity of the town of Murree, and the respective boundaries whereof are set forth in the schedule hereto attached, are herby constituted, with effect from the 17th day of December 1885, inclusive, a single Cantonment under the name of "The Murree Cantonment" within the meaning of the Cantonments Act, 1880.

SCHEDULE.

A. Boundaries of the "Murree Depôt."
B. ,, ,, "Cliffden Family Depôt."
C. ,, ,, "Sunny Bank."
D. ,, ,, "Kuldanna."

(*Punjab Government Notification No.* 502, *dated* 16*th December* 1885, *Punjab Gazette of* 17*th idem, Part I A., p.* 221).

## ACT No. XII of 1880.

(*Passed on the* 9*th July* 1880).

An Act for the appointment of persons to the office of Kazi.

Preamble.

WHEREAS by the preamble to Act No. XI of 1864 (*An Act to repeal the law relating to the offices of Hindu and Muhammadan Law Officers and to the offices of Kazi-ul-Kuzaat and of Kazi, and to abolish the former offices*) it was (among other things) declared that it was inexpedient that the appointment of the Kazi-ul-Kuzaat, or of City, Town, or Pargana Kazis, should be made by the

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Government, and by the same Act the enactments relating tothe appointment by the Government of the said officers were repealed ; and whereas by the usage of the Muhammadan community in some parts of British India the presence of Kazis appointed by the Government is required at the celebration of marriages and the performance of certain other rites and ceremonies, and it is therefore expedient that the Government should again be empowered to appoint persons to the office of Kazi ; It is hereby enacted as follows :—

Short title,

1. This Act may be called "The Kazi's Act, 1880" ;

Commencement.

and it shall come into force at once.

Local extent.

It extends in the first instance, only to the territories administered by the Governor of Fort St. George in Council. But any other Local Government may, from time to time, by notification in the official Gazette, extend it to the whole or any part of the territories under its administration.

NOTE.—The Act has been extended to the Divisions of Lahore, Amritsar, and Rawalpindi.—(*Punjab Government Notification No.* 125, *Punjab Gazette of* 23*rd February* 1882).

Also to—

(*i*). The Trans-Indus portion of the Dera Ismail Khan District.

(*ii*). The District of Dera Ghazi Khan.—(*Punjab Government Notification No.* 254, *dated* 10*th March* 1883, *Punjab Gazette of* 15*th idem*).

(*iii*). Hazara district.—(*No.* 916, *dated* 16*th November* 1885, *Punjab Gazette of* 19*th idem, Part I, page* 1002).

Power to Government to appoint Kazis for any local area.

2. Whenever it appears to the Local Government that any considerable number of the Muhammadans resident in any local area desire that one or more Kazis should be appointed for such local area, the Local Government may, if it thinks fit, after consulting the principal Muhammadan residents of such local area, select one or more fit persons and appoint him or them to be Kazis for such local area. If any question arises whether any person has been rightly appointed Kazi under this section, the decision thereof by the Local Government shall be conclusive. The Local Government may, if it thinks fit, suspend or remove any Kazi appointed under this section who is guilty of any misconduct in the execution of his office, or who is for a continuous period of six months absent from the local area for which he is appointed, or leaves such local area for the purpose of residing elsewhere, or is declared an insolvent; or desires to be discharged from the office, or who refuses or becomes in the opinion of the Local Government unfit, or personally incapable, to discharge the duties of the office.

Naib Kazis.

3. Any Kazi appointed under this Act may appoint one or more persons as his naib or naibs to act in his place in all or any of the matters appertaining to his office throughout the whole or in any portion of the local area for which he is appointed, and may suspend or remove any naib so appointed.

When any Kazi is suspended or removed under section two, his naib or naibs (if any) shall be deemed to be suspended or removed, as the case may be.

4. Nothing herein contained and no appointment made hereunder, shall be deemed—

Nothing in Act to confer judicial or other powers on Kazi ; or,

(*a*) to confer any judicial or administrative powers on any Kazi or Naib-Kazi appointed hereunder ; or

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to render the presence of a Kazi necessary ; or

(b) to render the presence of a Kazi or Naib Kazi necessary at the celebration of any marriage or the performance of any right or ceremony ; or

to prevent any one acting as Kazi.

(c) to prevent any person discharging any of the functions of a Kazi.

## ACT No XIII of 1880.

(*Passed on the 9th July* 1880).

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities and Cantonments.

Preamble.

WHEREAS it it expedient to give power to prohibit inoculation, and make the vaccination of children compulsory, in certain municipalities and cantonments ; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Vaccination Act, 1880" ; and

Application.

It shall apply only to such municipalities and cantonments situate in the territories administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commsissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmere and Coorg, as it may be extended to in manner hereinafter provided.

Interpretation-clause.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) the expression "Municipal Commissioners" means a body of Municipal Commissioners or a Municipal Committee constituted under the provisions of any enactment for the time being in force :

(2) "parent" means the father of a legitimate child and mother of an illegitimate child :

(3) "guardian" includes any person who has accepted or assumed the care or custody of any child :

(4) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination :

(5) "inoculation" means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter :

(6) "vaccination circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination :

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized by the Local Government in manner hereinafter provided to perform the same operation ; and includes a "Superintendent of vaccination" :

(8) "vaccination-season" means the period from time to time fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act.

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Extension of Act to municipalities.

3. A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality, and thereupon the Local Government may, if it thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like notification effect the proposed extension.

NOTE.—The Act has been extended under this section to—

(*a*). The Amritsar Municipality. (*No.* 925, *dated* 17*th December* 1884, *Punjab Gazette of* 18*th idem, Part I, p.* 1227).

(*b*). The Simla Municipality. (*No.* 486, *dated* 3*rd October* 1887, *Punjab Gazette of* 6*th idem, Part I, p.* 548).

Extension to cantonments.

4. The Local Government may, with the previous sanction of the Governor-General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment.

Power to withdraw local area from operation of Act.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality, or, with the previous sanction of the Governor-General in Council, any local area in a cantonment, from the operation of this Act.

Prohibition of inoculation.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

Inoculated persons not to enter, without certificate, local area subject to Act.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-circles.

7. Every local area to which this Act applies shall be a vaccination-circle, or shall in manner hereinafter provided be divided into a number of such circles;

Vaccinators.

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

Superintendent of vaccination.

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Private vaccinators.

8. The Local Government may by written license authorize private vaccinators to perform vaccination in any vaccination circle, and may suspend or cancel any such license.

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Unprotected children to be vaccinated.

9. When any unprotected child, having attained the age of six months, has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Vaccinator to vaccinate children, or deliver certificates of postponement.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

Inspection after vaccination.

10. The parent or guardian of every child which has been vaccinated under section nine shall, on the date of inspection stated in the memorandum, take the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator; and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Procedure when vaccination is successful.

11. When it is ascertained at the time of inspecting a child under section ten that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

Procedure when vaccination is unsuccessful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided.

Procedure when child is unfit for vaccination.

13. A certificate granted under section nine shewing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator.

Renewal of postponement certificates.

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section nine shall be renewed.

Certificate of insusceptibility of successful vaccination.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

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15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act:

What lymph to be used.

Provided that,

1st, if animal-lymph is so prescribed and the parent or guardian of any child desire that such child shall be vaccinated with human lymph, it shall be so vaccinated; and

2nd, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act:

No fee to be charged except by private vaccinator.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

Proviso.

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated: and if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Duties of Superintendent of vaccination.

Notice to parent or guardian neglecting to comply with Act.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the District, or such Magistrate as the Local Government or the Magistrate of the District may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Order by Magistrate when notice not complied with.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section twenty-two.

Procedure when order not obeyed.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Magistrates to be non-official Natives.

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Power to make rules for municipalities.

19. When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the law for the time being in force, the Commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall, when comfirmed by the Local Government and published in the official Gazette, have the force of law.

Provided that the Local Government may at any time rescind or modify any such rule.

NOTE.—See Note (*b*) at the end of the Act.

Power to make rules for cantonments.

20 When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, subject to the control of the Governor-General in Council, make such rules.

What rules under Sections 19 and 20 may provide for.

21. The rules to be made for any local area under sections nineteen or twenty may, among other matters, provide for—

(*a*) the division of such local area into circles for the performance of vaccination ;

(*b*) the appointment of a place in each vaccination-circle as a public vaccine-station, and posting of some distinguishing mark in a conspicuous place near such station ;

(*c*) the qualifications to be required of public vaccinators and Superintendents of vaccination ;

(*d*) the authority with which their appointment, suspension, and dismissal shall rest ;

(*e*) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles ;

(*f*) the distinguishing mark or badge to be worn by them ;

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties ;

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses ;

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination, or of insusceptibility of vaccination ;

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph ;

(*k*) the fee to be paid for vaccination with animal-lymph under section fifteen ;

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child ;

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act ;

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the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight if girls :

the names of unprotected boys and girls, respectively, under these ages brought within such local area at any time after the application of this Act and who have resided there for a month ;

the result of each vaccination or its postponement, and the delivery of certificates, if any ;

(*n*) the assistance to be given by the Municipal Commissioners and municipal servants in the preparation of these registers, and in other matters ; and

(*o*) the preparation of vaccination-reports and returns.

Punishment of offences.

22. Whoever commits any of the undermentioned offences (that is to say) :—

(*a*) violates the provisions of section six,

(*b*) neglects without just excuse to obey an order made under section eighteen,

(*c*) breaks any of the rules made under section nineteen or twenty, or

(*d*) neglects without just cause to obey an order made under section eighteen after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say) :—

in the case of the offence mentioned in clause (*a*), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both ;

in the case of the offences mentioned in clauses (*b*) and (*c*), with fine which may extend to fifty rupees ; and

in the case of the offence mentioned in clause (*d*), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Municipal funds to receive fines and meet expenditure.

23. The amount of all fees and fines realized and the amount of all expenditure incurred, under this Act in any municipality shall respectively be credited to and paid from the municipal fund.

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NOTES.—(*a*). See Punjab Government Circular No. 15-2593, dated 6th August 1880, circulating Government of India No. 753, dated 22nd July 1880, showing what precautions the Supreme Government desires should be taken before this Act is applied to any Municipal town in the Punjab

(*b*). The following Rules for the regulation of vaccine operations in the City of Amritsar, made under Section 19 of Act XIII of 1880 by the Municipal Committee of Amritsar at a special meeting, have been confirmed by the Lieutenant-Governor, and are published for general information.

They will come into force six weeks from the date of publication of this Notification :—

VACCINATION BYE-LAWS.

Circles for the performance of vaccination.

For the performance of vaccination in accordance with the provisions of Act XIII of 1880, the local area included within the limits of the Municipality of Amritsar shall be divided into three urban circles, comprising the City of Amritsar and corresponding with groups of four of the existing conservancy divisions, and a fourth or suburban circle, comprising the extra-mural limits and including within those limits the Civil Station of Amritsar.

Appointment of vaccine stations.

2. The Municipal Committee shall, from time to time, appoint a place or places in each vaccination circle as a public vaccine station or stations, and shall cause to be affixed on the outside of every such place, in a con-

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spicuous position, a sign-board on which shall be printed, in letters easily legible, and in the English, Urdu and Gurmukhi characters, the following inscription—" Amritsar Municipal Vaccine Station No. ."

Qualification of public Vaccinators and of Superintendents of Vaccination.

3. No person shall be appointed a public Vaccinator or a Superintendent of Vaccination unless he has obtained a certificate from the Sanitary Commissioner of the Punjab that he is duly qualified to perform vaccination as prescribed by Act XIII of 1880.

Authority to appoint, suspend and dismiss public Vaccinators.

4. The appointment, suspension and dismissal of public Vaccinators employed within the limits of the Municipality shall rest with the Civil Surgeon, subject to the approval of the Municipal Committee.

Time of attendance of public Vaccinators and their residence.

5. During the vaccination season public Vaccinators shall be bound to attend at the vaccine stations, to which they may be attached by the Civil Surgeon, daily from 10 A. M. to 4 P. M., and shall ordinarily reside on the premises provided by the Municipal Committee as a vaccine station within their respective circles, and in no case outside the limits of those circles.

Distinguishing badge to be worn by public Vaccinators.

6. The distinguishing badge of a public Vaccinator shall be a red cross on a white ground, and shall be worn on the breast.

Fee chargeable by private Vaccinators, and the authority to which they are subject in the performance of their duties.

7. Persons licensed by the Local Government to act as private Vaccinators shall in no case demand a higher fee than one rupee for a single operation, and shall perform their duties under the orders and subject to the general control of the Civil Surgeon.

Facilities for procuring vaccination of children at private houses.

8. Persons desirous of procuring the vaccination of their children at their own houses may apply for that purpose to the Superintendent of Vaccination of their circle, who shall thereupon depute an authorised Vaccinator to comply with the request.

Grant and form of certificates of successful vaccination, unfitness for or of insusceptibility of vaccination.

9. Whenever it is ascertained that a child is unfit for vaccination or is insusceptible of successful vaccination, a certificate in the Form A attached to these Rules shall be granted, in the former case to the parent or guardian of such child by the Vaccinator, and in the latter in the Form B by the Superintendent of Vaccination by whom such child was examined. In like manner, whenever it is ascertained that a child has been successfully vaccinated, a certificate shall be granted by the Vaccinator to the parent or guardian of such child in the Form C attached to these Rules.

Nature of lymph to be used.

10. The lymph to be used, except in the case provided for in Rule 12, shall be pure human lymph free from blood, pus, or other secretion, obtained on the seventh day from the arm of a healthy child, free from contagious disease, who had more than two perfect full-sized vesicles.

Supply of a sufficient quantity of animal lymph.

11. Two perfect vesicles shall be left untouched on the arm of each child to run their regular course, and not more than two children shall be vaccinated from each full-sized vessicle opened for the purpose of extraction of lymph, or more than six children from a single vaccinifer.

Fee to be charged for the use of animal lymph.

12. In any circle in which animal lymph is procurable, and the parent or guardian of a child produced for vaccination desires that such lymph, and not human lymph, may be used, the Vaccinator shall comply with such request.

Fee payable to public Vaccinator for vaccinating a child outside his circle.

13. A fee of one rupee shall be payable to a public Vaccinator who vaccinates a child at the request of the parent or guardian elsewhere than in the circle for which such Vaccinator is appointed.

Registers to be kept up by the Municipal Committee.

14. The following Registers shall be kept up by the Municipal Committee :—

(*a*). A register showing the names of children born within the local area subject to these rules on and after the date of the application of Act XIII of 1880 to such area.

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(*b*). A Register showing the names of unprotected children born in the area aforesaid previous to the date of the application of Act XIII of 1880, and who were at that date under the age of fourteen years if boys, and of eight years if girls.

(*c*). A Register showing the names of unprotected boys and girls, respectively, under these ages brought within the local area aforesaid at any time after the application of Act XIII of 1880, and who had resided there for a month.

(*d*). A Register showing the result of each vaccination or its postponement, and the delivery of certificates, if any.

Rules for the preparation of registers.

15. The preparation of Register (*a*) shall be effected from the Register of Births maintained in the Municipal Office.

Of Register (*b*) from information to be collected under the orders of the Secretary of the Municipal Committee by the Registrar of Births.

Of Register (*c*) from information to be collected by the Registrar of Births from the Lambardárs or Chaudhris of mohallas.

Of Register (*d*) from the reports submitted by Vaccinators for their respective circles, as hereinafter prescribed.

Registers to be kept up by Vaccinators.

16. Every public and private Vaccinator employed within the local area to which these Rules apply shall keep up the following Registers, namely :—

*Register A*—Showing—

(1). Name, sex, age, parentage, caste and residence of each child vaccinated.

(2). Date of vaccination.

(3). Date of inspection after vaccination.

(4). Result, whether successful or unsuccessful.

(5). Date of re-vaccination.

(6). Date of inspection after re-vaccination.

(7). Result, whether successful or unsuccessful.

*Register B*—Showing—

(1). Name, sex, age, parentage, caste and residence of each child produced but found unfit for vaccination.

(2). Date of certificate of postponement granted under Section 9 of Act XIII of 1880.

(3). Date on which the child was re-presented for vaccination, and the result of inspection,

(4). Date of renewal of postponement certificate, if any.

(5). Remarks.

*N.B.*—If on the child being re-presented for vaccination it is found to be in a fit state for that operation, the fact should be recorded in column 3 of Register B; and an entry of the fact of vaccination, when performed, should be made in Register A, a reference to such entry being made in the column of Remarks of Register B opposite the corresponding entry in the latter.

Preparation of vaccination reports and returns.

17. Every public and private Vaccinator shall prepare a monthly report during the vaccination season on the general result of the vaccine operations during that period, and shall submit the same through the Civil Surgeon to the Secretary of the Municipal Committee accompanied by a return showing—

(1). Number of boys vaccinated during the month.

(2). Number of girls vaccinated during the month.

(3). Results—

(*a*). Number successful.

(*b*). Number unsuccessful.

(*c*). Number insusceptible.

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FORM A.

AMRITSAR MUNICIPALITY.

VACCINATION STATION No.

*Certificate of unfitness for vaccination.*

I, a public (or licensed as the case may be) Vaccinator, do hereby certify that in my opinion (name of child) the son (or daughter, as the case may be) of resident of , is in a state unfit for vaccination, and that such unfitness will continue during (the whole, or, if a part, specify the same) the current vaccination season.

(Signed).

*Dated* *Vaccinator.*

FORM B.

*Certificate of insusceptibility of successful vaccination.*

I, , a Superintendent of Vaccination, do hereby certify that the son (or daughter, as the case may be) of resident of has been three times unsuccessfully vaccinated, and that in my opinion he (or she, as the case may be) is insusceptible of successful vaccination.

(Signed).

*Dated* *Superintendent of Vaccination.*

FORM C.

*Certificate of successful vaccination.*

I, a public (or licensed as the case may be) Vaccinator, do hereby certify that (name of child) the son (or daughter, as the case may be) of resident of was vaccinated by me on the day of in the year and that after due inspection I am satisfied that the vaccination has been successful.

(Signed).

*Dated* *Vaccinator.*

(*Punjab Government Notification No.* 129, *dated* 29*th March* 1887, *Punjab Gazette of* 31*st idem, Part I, p.* 207)

See Punjab Government Resolution No. 434 (Home Department, Medical and Sanitary) dated 20th June 1883 (*Punjab Gazette of* 26*th July* 1883, *Part I, p.* 448).

## ACT No. V of 1881.

(*Passed on the* 21*st January* 1881).

AN Act to provide for grant of Probates of Wills and Letters of Administration to the estates of certain deceased persons.

Preamble.

WHEREAS it is expedient to provide for the grant of probate of wills and letters of administration to the estates of deceased persons in cases to which the Indian Succession Act, 1865, does not apply ; It is hereby enacted as follows :—

### CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Probate and Administration Act, 1881" :

Local extent.

It applies to the whole of British India ;

Commencement.

and it shall come into force on the first day of April, 1881.

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Personal application.

2. Chapters II to XIII, both inclusive, of this Act shall apply in the case of every Hindu, Muhammadan, Buddhist, and person exempted under Section 332 of the Indian Succession Act, 1865, dying before, on, or after the said first day of April, 1881 :

Provided that nothing herein contained shall be deemed to render invalid any transfer of property duly made before that day :

Provided also that, except in cases in which the Hindu Wills Act, 1870, applies, no Court in any local area beyond the limits of the towns of Calcutta, Madras, and Bombay, and the territories for the time being administered by the Chief Commissioner of British Burma, and no High Court in exercise of the concurrent jurisdiction over such local area hereby conferred, shall receive applications for probate or letters of administration until the Local Government has, with the previous sanction of the Governor-General in Council, by a notification in the official Gazette, authorized it so to do.

NOTE.—In exercise of the power conferred by Section 2 of the Probate and Administration Act, 1881, His Honor the Lieutenant-Governor of the Punjab with the previous sanction of the Governor-General in Council is pleased hereby to authorise the Chief Court of the Punjab throughout the territories administered by the Lieutenant-Governor of the Punjab, and all District Judges as defined in the said Act, within the said territories, and such Judicial officers as the said Chief Court may from time to time appoint as District Delegates, to receive applications for probate and letters of administration.—(*Notification No.* 3748, *dated* 30*th September* 1881, *Punjab Gazette of* 6*th October*).

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"province" includes any division of British India having a Court of the last resort :

"minor" means any person subject to the Indian Majority Act, 1875, who has not attained his majority within the meaning of that Act, and any other person who has not completed his age of eighteen years ; and "minority" means the status of any such person :

"will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death :

"codicil" means an instrument made in relation to a will, and explaining, altering, or adding to its dispositions. It is considered as forming an additional part of the will :

"specific legacy" means a legacy of specified property :

"demonstrative legacy" means a legacy directed to be paid out of specified property :

"probate" means the copy of a will certified under the seal of a Court of competent jurisidiction, with a grant of administration to the estate of the testator :

"executor" means a person to whom the execution of the last will of a deceased person is, by the testator's appointment, confided :

"administrator" means a person appointed by competent authority to administer the estate of a deceased person when there is no executor : and

"District Judge" means the Judge of a principal Civil Court of original urisdiction.

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## CHAPTER II.

### Of Grant of Probate and Letters of Administration.

Character and property of executor or administrator as such.

4. The executor or administrator, as the case may be, of a deceased person, is his legal representative for all purposes, and all the property of the deceased person vests in him as such.

But nothing herein contained shall vest in an executor or administrator any property of a deceased person which would otherwise have passed by survivorship to some other person.

Administration with copy annexed of authenticated copy of will proved abroad.

5. When a will has been proved and deposited in a Court of competent jurisdiction, situated beyond the limits of the province, whether in the British dominions, or in a foreign country, and a properly authenticated copy of the will is produced, letters of administration may be granted with a copy of such copy annexed.

Probate only to appointed executor.

6. Probate can be granted only to an executor appointed by the will.

Appointment express or implied.

7. The appointment may be express or by necessary implication.

*Illustrations.*

(*a*). A wills that C be his executor if B will not. B is appointed executor by implication.

(*b*). A gives a legacy to B and several legacies to other persons, among the rest to his daughter-in-law, C, and adds, "but should the within-named C be not living, I do constitute and appoint B my whole and sole executrix." C is appointed executrix by implication.

(*c*). A appoints several persons executors of his will and codicils, and his nephew residuary legatee, and in another codicil are these words:—"I appoint my nephew my residuary legatee, to discharge all lawful demands against my will and codicils, signed of different dates." The nephew is appointed an executor by implication.

Persons to whom probate cannot be granted.

8. Probate cannot be granted to any person who is a minor or is of unsound mind.

Grant of probate to several executors simultaneously or at different times.

9. When several executors are appointed, probate may be granted to them all simultaneously or at different times.

*Illustration.*

A is an executor of B's will by express appointment, and C an executor of it by implication. Probate may be granted to A and C at the same time, or to A first and then to C, or to C first, then to A.

Separate probate of codicil discovered after grant of probate.

10. If a codicil be discovered after the grant of probate, a separate probate of that codicil may be granted to the executor, if it in no way repeals the appointment of executors made by the will.

Procedure when different executor appointed by codicil

If different executors are appointed by the codicil, the probate of the will must be revoked, and a new probate granted of the will and the codicil together.

Accrual of representation to surviving executor.

11. When probate has been granted to several executors, and one of them dies, the entire representation of the testator accrues to the surviving executor or executors.

Effect of probate.

12. Probate of a will when granted establishes the will from the death of the testator, and renders valid all intermediate acts of the executor as such.

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To whom administration may not be granted.

13. Letters of administration cannot be granted to any person who is a minor or is of unsound mind.

Effect of letters of administration.

14. Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration had been granted at the moment after his death.

Acts not validated by administration.

15. Letters of administration do not render valid any intermediate acts of the administrator tending to the diminution or damage of the intestate's estate.

Grant of administration where executor has not renounced.

16. When a person appointed an executor has not renounced the executorship, letters of administration shall not be granted to any other person until a citation has been issued calling upon the executor to accept or renounce his executorship;

Exception.

except that, when one or more of several executors has or have proved a will, the Court may, on the death of the survivor of those who have proved, grant letters of administration without citing those who have not proved.

Form and effect of renunciation of executorship.

17. The renunciation may be made orally in the presence of the Judge, or by a writing signed by the person renouncing, and when made shall preclude him from ever thereafter applying for probate of the will appointing him executor.

Procedure where executor renounces or fails to accept within time limited.

18. If the executor renounce, or fail to accept, the executorship within the time limited for the acceptance or refusal thereof, the will may be proved and letters of administration with a copy of the will annexed may be granted to the person who would be entitled to administration in case of intestacy.

Grant of administration to universal or residuary legatee.

19. When the deceased has made a will but has not appointed an executor, or

when he has appointed an executor who is legally incapable or refuses to act, or has died before the testator, or before he has proved the will, or

when the executor dies after having proved the will but before he has administered all the estate of the deceased,

an universal or a residuary legatee may be admitted to prove the will, and letters of administration with the will annexed may be granted to him of the whole estate, or of so much thereof as may be unadministered.

Right to administration of representative of deceased residuary legatee.

20. When a residuary legatee who has a beneficial interest survives the testator, but dies before the estate has been fully administered, his representative has the same right to administration with the will annexed as such residuary legatee.

Grant of administration where no executor, nor residuary legatee, nor representative of such legatee.

21. When there is no executor and no residuary legatee or representative of a residuary legatee, or he declines or is incapable to act, or cannot be found, the person or persons who would be entitled to the administration of the estate of the deceased if he had died intestate,

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or any other legatee having a beneficial interest, or a creditor, may be admitted to prove the will, and letters of administration may be granted to him or them accordingly.

Citation before grant of administration to legatee other than universal or residuary.

22. Letters of administration with the will annexed shall not be granted to any legatee other than an universal or a residuary legatee, until a citation has been issued and published in the manner hereinafter mentioned calling on the next-of-kin to accept or refuse letters of administration.

To whom administration may be granted.

23. When the deceased has died intestate, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate of an intestate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased's estate.

When several such persons apply for administration, it shall be in the discretion of the Court to grant it to any one or more of them.

When no such person applies, it may be granted to a creditor of the deceased.

## CHAPTER III.

### Of Limited Grants.

#### (a).—*Grants limited in Duration.*

Probate of copy or draft of lost will.

24. When the will has been lost or mislaid since the testator's death, or has been destroyed by wrong or accident and not by any act of the testator, and a copy or the draft of the will has been preserved, probate may be granted of such copy or draft, limited until the original or a properly authenticated copy of it be produced.

Probate of contents of lost or destroyed will.

25. When the will has been lost or destroyed and no copy has been made nor the draft preserved, probate may be granted of its contents, if they can be established by evidence.

Probate of copy where original exists.

26. When the will is in the possession of a person residing out of the province in which application for probate is made, who has refused or neglected to deliver it up, but a copy has been transmitted to the executor, and it is necessary for the interests of the estate that probate should be granted without waiting for the arrival of the original, probate may be granted of the copy so transmitted, limited until the will or an authenticated copy of it be produced.

Administration until will produced.

27. Where no will of the deceased is forthcoming, but there is reason to believe that there is a will in existence, letters of administration may be granted, limited until the will or an authenticated copy of it be produced.

#### (b).—*Grants for the Use and Benefit of others having Right.*

Administration, with will annexed, to attorney of absent executor.

28. When any executor is absent from the province in which application is made, and there is no executor within the province willing to act, letters of administration with the will annexed may be granted to the agent of the absent executor, for the use and benefit of his principal, limited until he shall obtain probate or letters of administration granted to himself.

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Administration, with will annexed, to attorney of absent person, who, if present, would be entitled to administer.

29. When any person to whom, if present, letters of administration with the will annexed might be granted, is absent from the province, letters of administration with the will annexed may be granted to his agent, limited as above mentioned.

Administration to attorney of absent person entitled to administer in case of intestacy.

30. When a person entitled to administration in case of intestacy is absent from the province, and no person equally entitled is willing to act, letters of administration may be granted to the agent of the absent person limited as before mentioned.

Administration during minority of sole executor or residuary legatee.

31. When a minor is sole executor or sole residuary legatee, letters of administration with the will annexed may be granted to the legal guardian of such minor, or to such other person as the Court shall think fit, until the minor has attained his majority, at which period, and not before, probate of the will shall be granted to him.

Administration during minority of several executors or residuary legatees.

32. When there are two or more minor executors and no executor who has attained majority, or two or more residuary legatees and no residuary legatee who has attained majority, the grant shall be limited until one of them has attained his majority.

Administration for use and benefit of lunatic.

33. If a sole executor or a sole universal or residuary legatee, or a person who would be solely entitled to the estate of the intestate according to the rule for the distribution of intestates' estates, applicable in the case of the deceased, be a minor or lunatic, letters of administration with or without the will annexed, as the case may be, shall be granted to the person to whom the care of his estate has been committed by competent authority, or, if there be no such person, to such other person as the Court thinks fit to appoint, for the use and benefit of the minor or lunatic, until he attains majority or becomes of sound mind, as the case may be.

Administration *pendente lite.*

34. Pending any suit touching the validity of the will of a deceased person, or for obtaining or revoking any probate or any grant of letters of administration, the Court may appoint an administrator of the estate of such deceased person who shall have all the rights and powers of a general administrator, other than the right of distributing such estate ; and every such administrator shall be subject to the immediate control of the Court and shall act under its direction.

*(c).—For Special Purposes.*

Probate limited to purpose specified in will.

35. If an executor be appointed for any limited purpose specified in the will, the probate shall be limited to that purpose, and if he should appoint an agent to take administration on his behalf, the letters of administration with the will annexed shall be limited accordingly.

Administration with will annexed limited to particular purpose.

36. If an executor appointed generally give an authority to an attorney to prove a will on his behalf, and the authority is limited to a particular purpose, the letters of administration with the will annexed shall be limited accordingly.

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Administration limited to trust-property.

37 Where a person dies, leaving property of which he was the sole or surviving trustee, or in which he had no beneficial interest on his own account, and leaves no general representative, or one who is unable or unwilling to act as such, letters of administration, limited to such property, may be granted to the beneficiary, or to some other person on his behalf.

Administration limited to suit.

38. When it is necessary that the representative of a person deceased be made a party to a pending suit, and the executor or person entitled to administration is unable or unwilling to act, letters of administration may be granted to the nominee of a party in such suit, limited for the purpose of representing the deceased in the said suit, or in any other suit which may be commenced in the same or in any other Court between the parties, or any other parties, touching the matters at issue in the said suit, and until a final decree shall be made therein and carried into complete execution.

Administration limited to purpose of becoming party to suit to be brought against administrator.

39. If, at the expiration of twelve months from the date of any probate or letters of administration, the executor or administrator to whom the same has or have been granted is absent from the province within which the Court that has granted the probate or letters of administration is situate, such Court may grant, to any person whom it thinks fit, letters of administration limited to the purpose of becoming and being made a party to a suit to be brought against the executor or administrator, and carrying the decree which may be made therein into effect.

Administration limited to collection and preservation of deceased's property.

40. In any case in which it appears necessary for preserving the property of a deceased person, the Court within whose district any of the property is situate may grant, to any person whom such Court thinks fit, letters of administration limited to the collection and preservation of the property of the deceased, and giving discharges for debts due to his estate, subject to the directions of the Court.

Appointment, as administrator, of person other than one who under ordinary circumstances would be entitled to administration

41. When a person has died intestate, or leaving a will of which there is no executor willing and competent to act, or where the executor is, at the time of the death of such person, resident out of the province, and it appears to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof other than the person who under ordinary circumstances would be entitled to a grant of administration, the Judge may, in his discretion, having regard to consanguinity, amount of interest, the safety of the estate and probability that it will be properly administered, appoint such person as he thinks to be administrator; and in every such case letters of administration may be limited or not as the Judge thinks fit.

*(d).—Grants with Exception.*

Probate or administration with will annexed subject to exception.

42. Whenever the nature of the case requires that an exception be made, probate of a will, or letters of administration with the will annexed, shall be granted subject to such exception.

Administration with exception.

43. Whenever the nature of the case requires that an exception be made, letters of administration shall be granted subject to such exception.

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(e).—*Grants of the Rest.*

Probate or administration of rest.

**44.** Whenever a grant, with exception, of probate or letters of administration, with or without the will annexed, has been made, the person entitled to probate or administration of the remainder of the deceased's estate may take a grant of probate or letters of administration, as the case may be, of the rest of the deceased's estate.

(f).—*Grants of Effects unadministered.*

Grant of effects unadministered.

**45.** If the executor to whom probate has been granted has died leaving a part of the testator's estate unadministered, a new representative may be appointed for the purpose of administering such part of the estate.

Rules as to grants of effects unadministered.

**46.** In granting letters of administration of an estate not fully administered, the Court shall be guided by the same rules as apply to original grants, and shall grant letters of administration to those persons only to whom original grants might have been made.

Administration when limited grant expired, and still some part of estate unadministered.

**47.** When a limited grant has expired by effluxion of time, or the happening of the event or contingency on which it was limited, and there is still some part of the deceased's estate unadministered, letters of administration shall be granted to those persons to whom original grants might have been made.

## CHAPTER IV.

### Alteration and Revocation of Grants.

What errors may be rectified by Court.

**48.** Errors in names and descriptions, or in setting forth the time and place of the deceased's death, or the purpose in a limited grant, may be rectified by the Court, and the grant of probate or letters of administration may be altered and amended accordingly.

Procedure where codicil discovered after grant of administration with will annexed.

**49.** If, after the grant of letters of administration with the will annexed, a codicil be discovered, it may be added to the grant on due proof and identification, and the grant altered and amended accordingly.

Revocation or annulment for just cause.

"Just cause."

**50.** The grant of probate or letters of administration may be revoked or annulled for just cause.

*Explanation.*—Just cause is—

1*st*, that the proceedings to obtain the grant were defective in substance ;

2*nd*, that the grant was obtained fraudulently by making a false suggestion, or by concealing from the Court something material to the case ;

3*rd*, that the grant was obtained by means of an untrue allegation of a fact essential in point of law to justify the grant, though such allegation was made in ignorance or inadvertently ;

4*th*, that the grant has become useless and inoperative through circumstances.

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*Illustrations.*

(*a*). The Court by which the grant was made had no jurisdiction.

(*b*). The grant was made without citing parties who ought to have been cited.

(*c*). The will of which probate was obtained was forged or revoked.

(*d*). A obtained letters of administration to the estate of B, as his widow, but it has since transpired that she was never married to him.

(*e*). A has taken administration to the estate of B as if he had died intestate, but a will has since been discovered.

(*f*). Since probate was granted, a later will has been discovered.

(*g*). Since probate was granted, a codicil has been discovered which revokes or adds to the appointment of executors under the will.

(*h*). The person to whom probate was, or letters of administration were, granted has subsequently become of unsound mind.

## CHAPTER V.

### Of the Practice in Granting and Revoking Probates and Letters of Administration.

Jurisdiction of District Judge in granting and revoking probates, &c.

**51.** The District Judge shall have jurisdiction in granting and revoking probates and letters of administration in cases within his district.

Power to appoint Delegate of District Judge to deal with non-contentious cases.

**52.** The High Court may, from time to time, appoint such judicial officers within any district as it thinks fit to act for the District Judge as Delegates to grant probates and letters of administration in non-contentious cases, within such local limits as it may from time to time prescribe :

Provided that, in the case of High Courts not established by Royal Charter, such appointment be made with the previous sanction of the Local Government.

Persons so appointed shall be called "District Delegates."

District Judge's powers as to grant of probate and administration.

**53.** The District Judge shall have the like powers and authority in relation to the granting of probate and letters of administration, and all matters connected therewith, as are by law vested in him in relation to any civil suit or proceeding depending in his Court.

District Judge may order person to produce testamentary papers.

**54.** The District Judge may order any person to produce and bring into Court any paper or writing being or purporting to be testamentary, which may be shown to be in the possession or under the control of such person ; and if it be not shown that any such paper or writing is in the possession or under the control of such person, but there is reason to believe that he has the knowledge of any such paper or writing, the Court may direct him to attend for the purpose of being examined respecting the same,

and he shall be bound to answer such questions as may be put to him by the Court, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like punishment under the Indian Penal Code, in case of default in not attending or in not answering such questions or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit, and had made such default,

and the costs of the proceeding shall be in the discretion of the Judge.

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Proceedings of District Judge's Court in relation to probate and administration.

**55.** The proceedings of the Court of the District Judge, in relation to the granting of probate and letters of administration, shall, except as hereinafter otherwise provided, be regulated, so far as the circumstances of the case will admit, by the Code of Civil Procedure.

When probate or administration may be granted by District Judge.

**56.** Probate of the will or letters of administration to the estate of a deceased person may be granted by the District Judge under the seal of his Court, if it appears by a petition, verified as hereinafter mentioned, of the person applying for the same that the testator or intestate, as the case may be, had at the time of his decease a fixed place of abode, or any property, moveable or immoveable, within the jurisdiction of the Judge.

Disposal of application made to Judge of District in which deceased had no fixed abode.

**57.** When the application is made to the Judge of a District in which the deceased had no fixed abode at the time of his death, the Judge may in his discretion refuse the application, if in his judgment it could be disposed of more justly or conveniently in another district, or, where the application is for letters of administration, grant them absolutely, or limited to the property within his own jurisdiction.

Probate and letters of administration may be granted by Delegate.

**58.** Probate and letters of administration may, upon application for that purpose to any District Delegate, be granted by him in any case in which there is no contention, if it appears by petition (verified as hereinafter mentioned) that the testator or intestate, as the case may be, at the time of his death had his fixed place of abode within the jurisdiction of such Delegate.

Conclusiveness of probate or letters of administration.

**59.** Probate or letters of administration shall have effect over all the property, moveable or immoveable, of the deceased throughout the province in which the same is granted, and shall be conclusive as to the representative title against all debtors of the deceased and all persons holding property which belongs to him, and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person to whom such probate or letters of administration shall have been granted:

Effect of unlimited probates, &c., granted by certain Courts.

Provided that probates and letters of administration granted by a High Court established by Royal Charter, or by the Chief Court of the Punjab, or by the Court of the Recorder of Rangoon, shall, unless otherwise directed by the grant, have like effect throughout the whole of British India.

Transmission of certificate by Court granting unlimited probate, &c., to other Courts.

**60.** Whenever a grant of probate or letters of administration is made by a Court with such effect as last aforesaid, the Registrar, or such other officer as the Court making the grant appoints in this behalf, shall send to each of the other Courts empowered to make such grants, a certificate to the following effect:—

I, *A. B.*, Registrar [*or as the case may be*] of the High Court of Judicature at [*or as the case may be*], hereby certify that on the day of 188 the High Court of Judicature at [*or as the case may be*], granted probate of the will [*or* letters of administration of the estate] of *C. D.*, late of deceased, to *E. F.* of and *G. H.*

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of and that such probate [*or* letters] has [*or* have] effect over all the property of the deceased throughout the whole of British India ;"

and such certificate shall be filed by the Court receiving the same.

Conclusiveness of application for probate or administration, if properly made and verified.

61. The application for probate or letters of administration, if made and verified in the manner hereinafter mentioned, shall be conclusive for the purposes of authorizing the grant of probate or administration, and no such grant shall be impeached by reason that the testator or intestate had no fixed place of abode, or no property within the district at the time of his death, unless by a proceeding to revoke the grant if obtained by a fraud upon the Court.

Petition for probate.

62. Application for probate or for letters of administration with the will annexed shall be made by a petition distinctly written in English or in the language in ordinary use in proceedings before the Court in which the application is made, with the will, or, in the cases mentioned in sections twenty-four, twenty-five and twenty-six, a copy, draft, or statement of the contents thereof annexed, and stating—

the time of the testator's death,

that the writing annexed is his last will and testament, or as the case may be,

that it was duly executed,

the amount of assets which are likely to come to the petitioner's hands ;

and, where the application is for probate, that the petitioner is the executor named in the will.

In addition to these particulars, the petition shall further state,

when the application is to the District Judge, that the deceased at the time of his death had a fixed place of abode or had some property situate within the jurisdiction of the Judge ; and,

when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

In what cases translation of will to be annexed to petition.

63. In cases wherein the will, copy, or draft is written in any language, other than English, or than that in ordinary use in proceedings before the Court, there shall be a translation thereof annexed to the petition by a translator of the Court, if the language be one for which a translator is appointed ; or, if the will, copy, or draft be in any other language, then by any person competent to translate the same, in which case such translation shall be verified by that person in the following manner :—

"I (*A. B.*) do declare that I read and perfectly understand the language and character of the original, and that the above is a true and accurate translation thereof"

Petition for letters of administration.

64. Application for letters of administration shall be made by petition distinctly written as aforesaid, and stating,

the time and place of the deceased's death,

the family or other relatives of the deceased, and their respective residences,

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the right in which the petitioner claims,

the amount of assets which are likely to come to the petitioner's hands.

In addition to these particulars the petition shall further state,

when the application is to a District Judge, that the deceased at the time of his death had a fixed place of abode or had some property situate within the jurisdiction of the Judge; and

when the application is to a District Delegate, that the deceased at the time of his death had a fixed place of abode within the jurisdiction of such Delegate.

Additional statements in petition for probate, &c.

**65.** Every person applying to any of the Courts mentioned in the proviso to section fifty-nine for probate of a will or letters of administration of an estate, intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by section sixty-two and sixty-four, that to the best of his belief no application has been made to any other Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid,

or, where any such application has been made, the Court to which it was made, the person or persons by whom it was made, and the proceedings (if any) had thereon.

And the Court to which any application is made under the proviso to section fifty-nine may, if it think fit, reject the same.

Petition for probate or administration to be signed and verified.

**66.** The petition for probate or letters of administration shall in all cases be subscribed by the petitioner and his pleader, if any, and shall be verified by the petitioner in the following manner or to the like effect:

"I (*A. B.*), the petitoner in the above petition, declare that what is stated therein is true to the best of my information and belief."

Verification of petition for probate by one witness to will.

**67.** Where the application is for probate, or for letters of administration with the will annexed, the petition shall also be verified by at least one of the witnesses to the will (when procurable), in the manner or to the effect following:—

"I (*C. D.*), one of the witnesses to the last will and testament of the testator mentioned in the above petition, declare that I was present and saw the said testator affix his signature (*or* mark) thereto (*as the case may be*) (*or* that the said testator acknowledged the writing annexed to the above petition to be his last will and testament in my presence)."

Punishment for false averment in petition or declaration.

**68.** If any petition or declaration which is hereby required to be verified contains any averment which the person making the verification knows or believes to be false, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

District Judge may examine petitioner in person.

**69.** In all cases it shall be lawful for the District Judge or District Delegate, if he think fit,

to examine the petitioner in person upon oath, and also

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to require further evidence of the due execution of the will, or the right of the petitioner to the letters of administration, as the case may be, and

require further evidence,

to issue citations calling upon all persons claiming to have any interest in the estate of the deceased to come and see the proceedings before the grant of probate or letters of administration.

and issue citations to inspect proceedings.

The citation shall be fixed up in some conspicuous part of the Court-house, and also in the office of the Collector of the District, and otherwise published or made known in such manner as the Judge or Delegate issuing the same may direct.

Publication of citation.

70. Caveats against the grant of probate or letters of administration may be lodged with the District Judge or a District Delegate; and immediately on any caveat being lodged with any District Delegate, he shall send a copy thereof to the District Judge; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District Delegate, if any, within whose jurisdiction it is alleged the deceased had his fixed place of abode at the time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same.

Caveats against grant of probate or administration.

71. The caveat shall be to the following effect:—

Form of caveat

"Let nothing be done in the matter of the estate of *A. B.*, late of deceased, who died on the day of at , without notice to *C. D.* of ."

72. No proceeding shall be taken on a petition for probate or letters of administration after a caveat against the grant thereof has been entered with the Judge or District Delegate to whom the application has been made, or notice thereof has been given of its entry with some other Delegate, until after such notice to the person by whom the same has been entered as the Court shall think reasonable.

After entry of caveat, no proceeding taken on petition until after notice to caveator.

73. A District Delegate shall not grant probate or letters of administration in any case in which there is contention as to the grant, or in which it otherwise appears to him that probate or letters of administration ought not to be granted in his Court.

District Delegate when not to grant probate or administration.

*Explanation.*—By "contention" is understood the appearance of any one in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf, to oppose the proceeding.

74. In every case in which there is no contention, but it appears to the District Delegate doubtful whether the probate or letters of administration should or should not be granted, or when any question arises in relation to the grant, or application for the grant, of any probate or letters of administration, the District Delegate may, if he thinks proper, transmit a statement of the matter in question to the District Judge, who may direct the District Delegate to proceed in the matter of the application, according to such instructions as to the Judge may seem necessary, or may forbid any further proceeding by the District Delegate in relation

Power to transmit statement to District Judge in doubtful cases where no contention.

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to the matter of such application, leaving the party applying for the grant in question to make application to the Judge.

Procedure where there is contention, or District Delegate thinks probate or letters of administration should be refused in his Court.

**75.** In every case in which there is contention, or the District Delegate is of opinion that the probate or letters of administration should be refused in his Court, the petition, with any documents that may have been filed therewith, shall be returned to the person by whom the application was made, in order that the same may be presented to the District Judge; unless the District Delegate thinks it necessary, for the purposes of justice, to impound the same, which he is hereby authorized to do; and in that case the same shall be sent by him to the District Judge.

Grant of probate to be under seal of Court.

**76.** Whenever it appears to the Judge or District Delegate that probate of a will should be granted, he shall grant the same under the seal of his Court in manner following:—

Form of such grant.

"I, Judge of the District of , [*or* Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*)] hereby make known that on the day of in the year the last will of , late of , a copy whereof is hereunto annexed, was proved and registered before me, and that administration of the property and credits of the said deceased, and in any way concerning his will was granted to , the executor in the said will named, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same at or before the expiration of six months from the date of this grant, and also to render a true account of the said property and credits within one year from the same date.

"The day of 18 ."

Grant of letters of administration to be under seal of Court.

**77.** Whenever it appears to the District Judge or District Delegate that letters of administration to the estate of a person deceased, with or without a copy of the will annexed, should be granted, he shall grant the same under the seal of his Court in manner following:—

Form of such grant.

"I, , Judge of the District of [or Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*) ] hereby make known that on the day of letters of administration (with *or* without the will annexed, *as the case may be*) of the property and credits of , late of , deceased, were granted to , the father (*or as the case may be*) of the deceased, he having undertaken to administer the same, and to make a true inventory of the said property and credits, and to exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also to render a true account of the said property and credits within one year from the same date.

"The day of 18 ."

Administration-bond.

**73.** Every person to whom any grant of letters of administration is committed, and, if the Judge so direct, any person to whom probate is granted, shall give a bond to the Judge of the District Court to enure for the benefit of the Judge for the time being, with one or more surety or sureties engaging for the due

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collection, getting in, and administering the estate of the deceased, which bond shall be in such form as the Judge from time to time by any general or special order directs.

Assignment of administration-bond.

79. The Court may, on application made by petition and on being satisfied that the engagement of any such bond has not been kept, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court may think fit, assign the same to some proper person who shall thereupon be entitled to sue on the said bond in his own name as if the same had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach thereof.

Time before which probate or administration shall not be granted.

80. No probate of a will shall be granted until after the expiration of seven clear days, and no letters of administration shall be granted until after the expiration of fourteen clear days, from the day of the testator or intestate's death.

Filing of original wills of which probate or administration with will annexed granted.

81. Until a public registry for wills is established, every District Judge and District Delegate shall file and preserve among the records of his Court all original wills of which probate or letters of administration with the will annexed may be granted by him; and the Local Government shall make regulations for the preservation and inspection of the wills so filed as aforesaid.

Grantee of probate or administration alone to sue, &c., until same revoked.

82. After any grant of probate or letters of administration, no other than the person to whom the same shall have been granted shall have power to sue or prosecute any suit, or otherwise act as representative of the deceased, throughout the province in which the same may have been granted, until such probate or letters of administration shall have been recalled or revoked.

Procedure in contentious cases.

83. In any case before the District Judge in which there is contention, the proceeding shall take, as nearly as may be, the form of a suit, according to the provisions of the Code of Civil Procedure, in which the petitioner for probate or letters of administration, as the case may be, shall be the plaintiff, and the person who may have appeared as aforesaid to oppose the grant shall be the defendant.

Payment to executor or administrator before probate or administration revoked.

84. Where any probate is, or letters of administration are, revoked, all payments *bonâ fide* made to any executor or administrator under such probate or administration before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same;

Right of such executor or administrator to recoup himself.

and the executor or administrator who shall have acted under any such revoked probate or administration may retain and reimburse himself out of the assets of the deceased in respect of any payments made by him which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.

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Power to refuse letters of administration.

85. Notwithstanding anything hereinbefore contained, it shall, except in cases to which the Hindu Wills Act, 1870, applies, be in the discretion of the Court to make an order refusing, for reasons to be recorded by it in writing, to grant any application for letters of administration made under this Act.

Appeals from orders of District Judge.

86. Every order made by a District Judge or District Delegate by virtue of the powers hereby conferred upon him shall be subject to appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals.

Concurrent jurisdiction of High Court.

87. The High Court shall have concurrent jurisdiction with the District Judge in the exercise of all the powers hereby conferred upon the District Judge.

## CHAPTER VI.

### Of the Powers of an Executor or Administrator.

In respect of causes of action surviving deceased, and debts due at death.

88. An executor or administrator has the same power to sue in respect of all causes of action that survive the deceased, and may exercise the same powers for the recovery of debts due to him at the time of his death, as the deceased had when living.

Demands and rights of suit of or against deceased survive to and against executor or administrator.

89. All demands whatsoever, and all rights to prosecute or defend any suit or other proceeding, existing in favour of or against a person at the time of his decease, survive to and against his executors or administrators, except causes of action for defamation, assault as defined in the Indian Penal Code, or other personal injuries not causing the death of the party, and except also cases where, after the death of the party, the relief sought could not be enjoyed, or granting it would be nugatory.

*Illustration.*

A collision takes place on a railway in consequence of some neglect or default of the officials, and a passenger is severely hurt, but not so as to cause death. He afterwards dies without having instituted any suit. The cause of action does not survive.

Power of executor or administrator to dispose of property.

90. An executor or administrator has power, with the consent of the Court by which the probate or letters of administration was or were granted, to dispose of the property of the deceased, either wholly or in part, in such manner as he thinks fit :

Provided that the Court may, when granting probate or letters of administration, exempt the executor or administrator from the necessity of obtaining such consent as to the whole or any specified part of the assets of the deceased.

*Illustrations.*

(*a*). The deceased has made a specific bequest of part of his property. The executor not having assented to the bequest, sells the subject of it with the consent of the Court. The sale is valid.

(*b*). The executor, in the exercise of his discretion, mortgages a part of the immoveable estate of the deceased with the consent of the Court. The mortgage is valid.

Purchase by executor or administrator of deceased's property.

91. If an executor or administrator purchases, either directly or indirectly, any part of the property of the deceased, the sale is voidable at the instance of any other person interested in the property sold.

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Powers of several executors or administrators exerciseable by one.

92. When there are several executors or administrators, the powers of all may, in the absence of any direction to the contrary in the will or grant of letters of administration, be exercised by any one of them who has proved the will or taken out administration.

*Illustrations.*

(*a*). One of several executors has power to release a debt due to the deceased.

(*b*). One has power to surrender a lease.

(*c*). One has power to sell the property of the deceased, moveable or immoveable.

(*d*). One has power to assent to a legacy.

(*e*). One has power to endorse a promissorynote payable to the deceased.

(*f*). The will appoints A, B, C, and D to be executors, and directs that two of them shall be a quorum. No act can be done by a single executor.

Survival of powers on death of one of several executors or administrators.

93. Upon the death of one or more of several executors or administrators, all the powers of the office become, in the absence of any direction to the contrary in the will or grant of letters of administration, vested in the survivors or survivor.

Powers of administrator of effects unadministered.

94. The administrator of effects unadministered has, with respect to such effects, the same powers as the original executor or administrator.

Powers of administrator during minority.

95. An administrator during minority has all the powers of an ordinary administrator.

Power of married executrix or administratrix.

96. When probate or letters of administration shall have been granted to a married woman, she has all the powers of an ordinary executor or administrator.

## CHAPTER VII.

### Of the Duties of an Executor or Administrator.

As to deceased's funeral ceremonies.

97. It is the duty of an executor to provide funds for the performance of the necessary funeral ceremonies of the deceased in a manner suitable to his condition, if he has left property sufficient for the purpose.

Inventory and account.

98. An executor or administrator shall, within six months from the grant of probate or letters of administration, exhibit in the Court by which the same has or have been granted an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person or persons to which the executor or administrator is entitled in that character, and shall in like manner, within one year from the date aforesaid, exhibit an account of the estate, showing the assets that have come to his hands, and the manner in which they have been applied or disposed of.

Inventory to include property in any part of British India.

99. In all cases where it is sought to obtain a grant of probate or letters of administration intended to have effect throughout the whole of British India, the executor, or the person applying for administration, shall include in the inventory of the effects of the deceased all his moveable or immoveable property situate in British India;

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And the value of such property situate in each province shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India.

As to property of, and debts owing to, deceased.

**100.** The executor or administrator shall collect, with reasonable diligence, the property of the deceased and the debts that were due to him at the time of his death.

Expenses to be paid before all debts.

**101.** Funeral expenses to a reasonable amount, according to the degree and quality of the deceased, and death-bed charges, including fees for medical attendance, and board and lodging for one month previous to his death, are to be paid before all debts.

Expenses to be paid next after such expenses.

**102.** The expenses of obtaining probate or letters of administration, including the costs incurred for or in respect of any judicial proceedings that may be necessary for administering the estate, are to be paid next after the funeral expenses and death-bed charges.

Wages for certain services to be next paid, and then other debts.

**103.** Wages due for services rendered to the deceased within three months next preceding his death by any labourer, artizan, or domestic servant are next to be paid, and then the other debts of the deceased according to their respective priorities (if any).

Save as aforesaid, all debts to be paid equally and rateably.

**104.** Save as aforesaid, no creditor is to have a right of priority over another.

But the executor or administrator shall pay such debts as he knows of, including his own, equally and rateably, as far as the assets of the deceased will extend.

Debts to be paid before legacies.

**105.** Debts of every description must be paid before any legacy.

Executor or administrator not bound to pay legacies without indemnity.

**106.** If the estate of the deceased is subject to any contingent liabilities, an executor or administrator is not bound to pay any legacy without a sufficient indemnity to meet the liabilities whenever they may become due.

Abatement of general legacies.

**107.** If the assets, after payment of debts, necessary expenses, and specific legacies, are not sufficient to pay all the general legacies in full, the latter shall abate or be diminished in equal proportions,

Executor not to pay one legatee in preference to another.

and, in the absence of any direction to the contrary in the will, the executor has no right to pay one legatee in preference to another, nor to retain any money on account of a legacy to himself or to any person for whom he is a trustee.

Non-abatement of specific legacy when assets sufficient to pay debts.

**108.** Where there is a specific legacy, and the assets are sufficient for the payment of debts and necessary expenses, the thing specified must be delivered to the legatee without any abatement.

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Right under demonstrative legacy, when assets sufficient to pay debts and necessary expenses.

109. Where there is a demonstrative legacy, and the assets are sufficient for the payment of debts and necessary expenses, the legatee has a preferential claim for payment of his legacy out of the fund from which the legacy is directed to be paid until such fund is exhausted, and if, after the fund is exhausted, part of the legacy still remains unpaid, he is entitled to rank for the remainder against the general assets as for a legacy of the amount of such unpaid remainder.

Rateable abatement of specific legacies.

110. If the assets are not sufficient to answer the debts and the specific legacies, an abatement shall be made from the latter rateably in proportion to their respective amounts.

*Illustration.*

A has bequeathed to B a diamond-ring, valued at 500 rupees, and to C a horse, valued at 1,000 rupees. It is found necessary to sell all the effects of the testator, and his assets, after payment of debts, are only 1,000 rupees. Of this sum rupees 333-5-4 are to be paid to B, and rupees 666-10-8 to C.

Legacies treated as general for purpose of abatement.

111. For the purpose of abatement, a legacy for life, a sum appropriated by the will to produce an annuity, and the value of an annuity when no sum has been appropriated to produce it, shall be treated as general legacies.

## CHAPTER VIII.

### OF THE EXECUTOR'S ASSENT TO A LEGACY.

Assent necessary to complete legatee's title.

112. The assent of the executor is necessary to complete a legatee's title to his legacy.

*Illustrations.*

(*a*). A by his will bequeaths to B his Government paper, which is in deposit with the Bank of Bengal. The Bank has no authority to deliver the securities, nor B a right to take possession of them, without the assent of the executor.

(*b*). A by his will has bequeathed to C his house in Calcutta in the tenancy of B. C is not entitled to receive the rents without the assent of the executor.

Effect of executor's assent to specific legacy.

113. The assent of the executor to a specific bequest shall be sufficient to divest his interest as executor therein, and to transfer the subject of the bequest to the legatee, unless the nature or the circumstances of the property require that it shall be transferred in a particular way.

Nature of assent.

This assent may be verbal, and it may be either express or implied from the conduct of the executor.

*Illustrations.*

(*a*). A horse is bequeathed. The executor requests the legatee to dispose of it, or a third party proposes to purchase the horse from the executor, and he directs him to apply to the legatee. Assent to the legacy is implied.

(*b*). The interest of a fund is directed by the will to be applied for the maintenance of the legatee during his minority. The executor commences so to apply it. This is an assent to the whole of the bequest.

(*c*). A bequest is made of a fund to A, and after him to B. The executor pays the interest of the fund to A. This is an implied assent to the bequest to B.

(*d*). Executors die after paying all the debts of the testator, but before satisfaction of specific legacies. Assent to the legacies may be presumed.

(*e*). A person to whom a specific article has been bequeathed takes possession of it and retains it without any objection on the part of the executor. His assent may be presumed.

Conditional assent.

114. The assent of an executor to a legacy may be conditional, and if the condition be one which he has a right to enforce, and it is not performed, there is no assent.

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*Illustrations.*

(*a*). A bequeathes to B his lands of Sultanpur, which at the date of the will, and at the death of B. were subject to a mortgage for 10,000 rupees. The executor assents to the bequest on condition that B shall within a limited time pay the amount due on the mortgage at the testator's death. The amount is not paid. There is no assent.

(*b*). The executor assents to a bequest on condition that the legatee shall pay him a sum of money. The payment is not made. The assent is nevertheless valid.

Assent of executor to his own legacy.

**115.** When the executor is a legatee, his assent to his own legacy is necessary to complete his title to it, in the same way as it is required when the bequest is to another person, and his assent may in like manner be express or implied.

Implied assent.

Assent shall be implied if in his manner of administering the property he does any act which is referable to his character of legatee and is not referable to his character of executor.

*Illustration.*

An executor takes the rent of a house or the interest of Government-securities bequeathed to him, and applies it to his own use. This is assent.

Effect of executor's assent.

**116.** The assent of the executor to a legacy gives effect to it from the death of the testator.

*Illustrations.*

(*a*). A legatee sells his legacy before it is assented to by the executor. The executor's subsequent assent operates for the benefit of the purchaser, and completes his title to the legacy.

(*b*). A bequeaths 1,000 rupees to B, with interest from his death. The executor does not assent to this legacy until the expiration of a year from A's death. B is entitled to interest from the death of A.

Executor when to deliver legacies.

**117.** An executor is not bound to pay or deliver any legacy until the expiration of one year from the testator's death.

*Illustration.*

A by his will directs his legacies to be paid within six months after his death. The executor is not bound to pay them before the expiration of a year.

## CHAPTER IX.

### Of the Payment and Apportionment of Annuities.

Commencement of annuity when no time fixed by will.

**118.** Where an annuity is given by the will, and no time is fixed for its comencement, it shall commence from the testator's death, and the first payment shall be made at the expiration of a year next after that event.

When annuity, to be paid quarterly or monthly, first falls due.

**119.** Where there is a direction that the annuity shall be paid quarterly or monthly, the first payment shall be due at the end of the first quarter or first month, as the case may be, after the testator's death, and shall, if the executor think fit, be paid when due; but the executor shall not be bound to pay it till the end of the year.

Date of successive payments when first payment directed to be made within given time, or on day certain.

**120.** When there is a direction that the first payment of an annuity shall be made within one month or any other division of time from the death of the testator, or on a day certain, the successive payments are to be made on the anniversary of the earliest day on which the will authorizes the first payment to be made;

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and if the annuitant dies in the interval between the times of payment, an apportioned share of the annuity shall be paid to his representative.

Apportionment where annuitant dies between times of payment.

## CHAPTER X.

### OF THE INVESTMENT OF FUNDS TO PROVIDE FOR LEGACIES.

121. Where a legacy, not being a specific legacy, is given for life, the sum bequeathed shall at the end of the year be invested in such securities as the High Court may by any general rule to be made from time to time authorize or direct, and the proceeds thereof shall be paid to the legatee as the same shall accrue due.

Investment of sum bequeathed where legacy, not specific, given for life.

122. Where a general legacy is given to be paid at a future time, the executor shall invest a sum sufficient to meet it in securities of the kind mentioned in the last preceding section.

Investment of general legacy, to be paid at future time.

The intermediate interest shall form part of the residue of the testator's estate.

Intermediate interest.

123. Where an annuity is given and no fund is charged with its payment or appropriated by the will to answer it, a Government-annuity of the specified amount shall be purchased, or

Procedure when no fund charged with, or appropriated to, annuity.

if no such annuity can be obtained, then a sum sufficient to produce the annuity shall be invested for that purpose in such securities as the High Court may, by any general rule to be made from time to time, authorize or direct.

124. Where a bequest is contingent, the executor is not bound to invest the amount of the legacy, but may transfer the whole residue of the estate to the residuary legatee (if any) on his giving sufficient security for the payment of the legacy if it shall become due.

Transfer to residuary legatee of contingent bequest.

115. Where the testator has bequeathed the residue of his estate to a person for life with a direction that it shall be invested in certain specified securities, so much of the estate as is not at the time of his death invested in securities of the specified kind shall be converted into money and invested in such securities.

Investment of residue bequeathed for life, with direction to invest in specified securities.

126. Such conversion and investment as are contemplated by the last preceding section shall be made at such times and in such manner as the executor in his discretion thinks fit;

Time and manner of conversion and investment.

and, until such conversion and investment shall be completed, the person who would be for the time being entitled to the income of the fund when so invested shall receive interest at the rate of six per cent. per annum upon the market value (to be computed as of the date of the testator's death) of such part of the fund as shall not yet have been so invested.

Interest payable until investment.

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Procedure where minor entitled to immediate payment or possession of bequest, and no direction to pay to person on his behalf.

**127.** Where, by the terms of a bequest, the legatee is entitled to the immediate payment or possession of the money or thing bequeathed, but is a minor, and there is no direction in the will to pay it to any person on his behalf, the executor or administrator shall pay or deliver the same into the Court of the District Judge by whom, or by whose District Delegate, the probate was, or letters of administration with the will annexed were, granted, to the account of the legatee, unless the legatee be a ward of the Court of Wards; and if the legatee be a ward of the Court of Wards, the legacy shall be paid into that Court to his account;

and such payment into the Court of the District Judge, or into the Court of Wards, as the case may be, shall be a sufficient discharge for the money so paid;

and such money, when paid in, shall be invested in the purchase of Government securities, which, with the interest thereon, shall be transferred or paid to the person entitled thereto, or otherwise applied for his benefit, as the Judge or the Court of Wards, as the case may be, may direct.

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## CHAPTER XI.

### Of the Produce and Interest of Legacies.

Legatee's title to produce of specific legacy.

**128.** The legatee of a specific legacy is entitled to the clear produce thereof, if any, from the testator's death.

*Exception.*—A specific bequest, contingent in its terms, does not comprise the produce of the legacy between the death of the testator and the vesting of the legacy.

The clear produce of it forms part of the residue of the testator's estate

*Illustrations.*

(*a*). A bequeaths his flock of sheep to B. Between the death of A and delivery by his executor the sheep are shorn, or some of the ewes produce lambs. The wool and lambs are the property of B.

(*b*). A bequeaths his Government-securities to B, but postpones the delivery of them till the death of C. The interest which falls due between the death of A and the death of C belongs to B, and must, unless he is a minor, be paid to him as it is received.

(*c*). The testator bequeaths all his four per cent. Government promissory notes to A when he shall complete the age of 18. A, if he complete that age, is entitled to receive the notes, but the interest which accrues in respect of them, between the testator's death and A's completing 18, forms part of the residue.

Residuary legatee's title to produce of residuary fund.

**129.** The legatee under a general residuary bequest is entitled to the produce of the residuary fund from the testator's death.

*Exception.*—A general residuary bequest contingent in its terms does not comprise the income which may accrue upon the fund bequeathed between the death of the testator and the vesting of the legacy.

Such income goes as undisposed of.

*Illustrations.*

(*a*). The testator bequeaths the residue of his property to A, a minor, to be paid to him when he shall complete the age of 18. The income from the testator's death belongs to A.

(*b*). The testator bequeaths the residue of his property to A when he shall complete the age of 18. A, if he complete that age, is entited to receive the residue. Th eincome which has accrued in respect of it since the testator's death goes as undisposed of.

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Interest when no time fixed for payment of general legacy.

130. Where no time has been fixed for the payment of a general legacy, interest begins to run from the expiration of one year from the testator's death.

*Exceptions.*—(1). Where the legacy is bequeathed in satisfaction of a debt, interest runs from the death of the testator.

(2). Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, the legacy shall bear interest from the death of the testator.

(3). Where a sum is bequeathed to a minor with a direction to pay for his maintenance out of it, interest is payable from the death of the testator.

Interest when time fixed.

131. Where a time has been fixed for the payment of a general legacy, interest begins to run from the time so fixed.

The interest up to such time forms part of the residue of the testator's estate.

*Exception.*—Where the testator was a parent or a more remote ancestor of the legatee, or has put himself in the place of a parent of the legatee, and the legatee is a minor, the legacy shall bear interest from the death of the testator, unless a specific sum is given by the will for maintenance, or unless the will contains a direction to the contrary.

Rate of interest.

132. The rate of interest shall be six per cent. per annum.

No interest on arrears of annuity within first year after testator's death.

133. No interest is payable on the arrears of an annuity within the first year from the death of the testator, although a period earlier than the expiration of that year may have been fixed by the will for making the first payment of the annuity.

Interest on sum to be invested to produce annuity.

134. Where a sum of money is directed to be invested to produce an annuity, interest is payable on it from the death of the testator.

## CHAPTER XII.

### Of the Refunding of Legacies.

Refund of legacy paid under Judge's orders.

135. An executor who has paid a legacy under the order of a Judge is entitled to call upon the legatee to refund in the event of the assets proving insufficient to pay all the legacies.

No refund if paid voluntarily.

136. When an executor has voluntarily paid a legacy, he cannot call upon a legatee to refund in the event of the assets proving insufficient to pay all the legacies.

Refund when legacy becomes due on performance of condition within further time allowed.

137. When the time prescribed by the will for the performance of a condition has elapsed, without the condition having been performed, and the executor has thereupon, without fraud, distributed the assets; in such case, if further time has, under the second clause of this section, been allowed for the performance of the condition, and the condition has been performed accordingly, the legacy cannot be claimed from the executor, but those to whom he has paid it are liable to refund the amount.

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Where the will requires an act to be performed by the legatee within a specified time, either as a condition to be fulfilled before the legacy is enjoyed, or as a condition upon the non-fulfilment of which the subject matter of the bequest is to go over to another person, or the bequest is to cease to have effect, the act must be performed within the time specified, unless the performance of it be prevented by fraud, in which case such further time shall be allowed as is requisite to make up for the delay caused by such fraud.

When each legatee compellable to refund in proportion.

**138.** When the executor has paid away the assets in legacies, and he is afterwards obliged to discharge a debt of which he had no previous notice, he is entitled to call upon each legatee to refund in proportion.

Distribution of assets.

**139.** Where an executor or administrator has given such notices as the High Court may, by any general rule, to be made from time to time, prescribe, for creditors and others to send in to him their claims against the estate of the deceased, he shall, at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets, or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he has not had notice at the time of such distribution;

Creditor may follow assets.

but nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets, or any part thereof, in the hands of the persons who may have received the same respectively.

Creditor may call upon legatee to refund.

**140.** A creditor who has not received payment for his debt may call upon a legatee who has received payment of his legacy to refund, whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies, and whether the payment of the legacy by the executor was voluntary or not.

When legatee, not satisfied or compelled to refund under Section 140, cannot oblige one paid in full to refund.

**141.** If the assets were sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, or who has been compelled to refund under the last preceding section, cannot oblige one who has received payment in full to refund, whether the legacy were paid to him with or without suit, although the assets have subsequently become deficient by the wasting of the executor.

When unsatisfied legatee must first proceed against executor, if solvent.

**142.** If the assets were not sufficient to satisfy all the legacies at the time of the testator's death, a legatee who has not received payment of his legacy, must, before he can call on a satisfied legatee to refund, first proceed aganst the executor if he is solvent; but, if the executor is insolvent or not liable to pay, the unsatisfied legatee can oblige each satisfied legatee to refund in proportion.

Limit to refunding of one legatee to another.

**143.** The refunding of one legatee to another shall not exceed the sum by which the satisfied legacy ought to have been reduced if the estate had been properly administered.

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*Illustration.*

A has bequeathed 240 rupees to B, 480 rupees to C, and 720 rupees to D. The assets are only 1,200 rupees, and if properly administered would give 200 rupees to B, 400 rupees to C, and 600 rupees to D. C and D have been paid their legacies in full, leaving nothing to B. B can oblige C to refund 80 rupees, and D to refund 120 rupees.

Refunding to be without interest.

144 The refunding shall in all cases be without interest.

Residue after usual payments to be paid to residuary legatee.

145. The surplus or residue of the deceased's property, after payment of debts and legacies, shall be paid to the residuary legatee when any has been appointed by the will.

## CHAPTER XIII.

### OF THE LIABILITY OF AN EXECUTOR OR ADMINISTRATOR FOR DEVASTATION.

Liability of executor or administrator for devastation.

146. When an executor or administrator misapplies the estate of the deceased, or subjects it to loss or damage, he is liable to make good the loss or damage so occasioned.

*Illustrations.*

(*a*). The executor pays out of the estate an unfounded claim. He is liable to make good the loss caused by the payment.

(*b*). The deceased had a valuable lease renewable by notice, which the executor neglects to give at the proper time. The executor is liable to make good the loss caused by the neglect.

(*c*). The deceased had a lease of less value than the rent payable for it, but terminable on notice at a particular time. The executor neglects to give the notice. He is liable to make good the loss.

For neglect to get in any part of property.

147. When an executor or administrator occasions a loss to the estate by neglecting to get in any part of the property of the deceased, he is liable to make good the amount.

*Illustrations.*

(*a*). The executor absolutely releases a debt due to the deceased from a solvent person or compounds with a debtor who is able to pay in full. The executor is liable to make good the amount so lost.

(*b*). The executor neglects to sue for a debt till the debtor is able to plead the Act for the limitation of suits, and the debt is thereby lost to the estate. The executor is liable to make good the amount of the debt.

## CHAPTER XIV.

### MISCELLANEOUS.

Provisions applied to administrator with will annexed.

148. In Chapters VIII, IX, X, and XII of this Act the provisions as to an executor shall apply also to an administrator with the will annexed.

Saving-clause.

149. Nothing herein contained shall—

(*a*) validate any testamentary disposition which would otherwise have been invalid;

(*b*) invalidate any such disposition which would otherwise have been valid;

(*c*) deprive any person of any right of maintenance to which he would otherwise have been entitled; or

(*d*) affect the rights, duties, and privileges of the Administrator-General of Bengal, Madras, or Bombay.

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Probate and administration in case of person exempted from Succession Act, to be granted only under this Act.

**150.** No proceedings to obtain probate of a will, or letters of administration to the estate of any Hindu, Muhammadan, Buddhist, or person exempted under Section 332 of the Indian Succession Act, 1865, shall be instituted in any Court in British India except under this Act.

Repeal of portions of Act XXVII of 1860.

**151.** In Act No XXVII of 1860 (*An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), Sections 15 and 16 and the proviso to Section 13 shall be repealed.

Grant of probate or administration to supersede certificate under Act XXVII of 1860, or Bombay Regulation VIII of 1827.

**152.** The grant of probate or letters of administration under this Act in respect of any property shall be deemed to supersede any certificate previously granted in respect of the same property under the said Act No. XXVII of 1860 or Bombay Regulation No. VIII of 1827; and when, at the time of the grant of such probate or letters, any suit or other proceeding instituted by the holder of such certificate regarding such property is pending, the person to whom such grant is made shall, on applying to the Court in which such suit or proceeding is pending, be entitled to take the place of such holder in such suit or proceeding:

Provided that, when any certificate is superseded under this section, all payments made to the holder of such certificate in ignorance of such supersession, shall be held good against claims under the probate or letters of administration.

Amendment of Court-fees Act.

**153.** In the Court-fees Act, 1870, Schedule I, Nos. 11 and 12, in the third column, after the words "amount or value," the following shall be inserted, namely :—

"Provided that, when after a certificate has been granted as aforesaid in respect of any estate, probate, or letters of administration is or are granted in respect of the same estate, the fee payable in respect of such latter grant shall be reduced by the amount of the fees paid in respect of the former grant."

Amendment of Hindu Wills Act.

**154.** The following amendments shall be made in the Hindu Wills Act, 1870 (namely) :—

(*a*). For the portion of section two commencing with the words "section one hundred and seventy-nine" and ending with the words "administrator with the will annexed," the words "and section one hundred and eighty-seven" shall be substituted.

(*b*). The third clause of section three and the last clause of section six shall be repealed.

(*c*). In section six, for the words "one hundred and three and one hundred and eighty-two" the words "and one hundred and three" shall be substituted.

Validation of grants of probate and administration made in British Burma.

**155.** All grants of probate of the will or letters of administration to the estate of any deceased Hindu, Muhammadan, or Buddhist, or any person exempted under Section 332 of the Indian Succession Act, 1865, which, before this Act comes into force, have been made in British Burma, shall, whenever such grant would have been lawful if this Act had been in force, be deemed to have been made in accordance with law.

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Amendment of Act XV of 1877.

153. In the second schedule to the Indian Limitation Act, 1877, No. 48, after the figures "321," the following shall be inserted, namely—"or under the Probate and Administration Act, 1881, Section 139 or 140."

## ACT No. VI of 1881.

(*Passed on the* 21*st January* 1881).

An Act to make further provision for the grant of Probate and Letters of Administration in non-contentious cases.

Preamble.

WHEREAS it is expedient to make further provision for the grant of probate and letters of administration in non-contentious cases; it is hereby enacted as follows:—

Short title.

1. This Act may be called "The District Delegates Act, 1881":—

Extent.

It extends to the whole of British India;

Commencement.

and it shall come into force on the first day of April, 1881.

Addition of section after Section 235. of Succession Act.

2. After Section 235 of the Indian Succession Act, 1865, the following section shall be added:—

(*See Act X of* 1865, *S.* 235 *A.*, *ante*, *p.* 262).

Addition of section after Section 241 of same Act.

3. After Section 241 of the said Act, the following section shall be added:—

(*See Act X of* 1865, *S.* 241 *A.*, *ante*, *p.* 2 3).

Addition to Sections 244 and 246 of same Act.

4. To Sections 244 and 246 of the said Act, respectively, the following words shall be added:—"and when the application is to a District Delegate, the petition shall further state that the deceased at the time of his death resided within the jurisdiction of such Delegate."

Substitution of section for Section 251 of same Act.

5. For Section 251 of the said Act, the following section shall be substituted:—

(*See Act X of* 1865, *S.* 251, *ante*, *p.* 266).

Amendment of Section 253 of same Act.

6. In Section 253 of the said Act after the word "Judge" the words "or officer," and after the word "made" the words "or notice thereof has been given of its entry with some other Delegate," shall be inserted.

Addition of sections after Section 253 of same Act.

7. After Section 253 of the said Act, the following sections shall be added:—

(*See Act X of* 1865, *SS.* 253 *A.*—253 *C.*, *ante*, *p.* 266).

Amendment of Sections 254, 255, and 308 of same Act.

8. In the said Act, Sections 254 and 255, respectively, after the words "I, Judge of the District of ," the words "(*or* Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate's jurisdiction*)," ; and in Section 308, after the words "District Judge by whom" the words "or by whose District Delegate" shall be inserted.

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Introduction of the words "or District Delegate" in certain sections of same Act.

9. In the said Act, Sections 246, 250, 255 and 259, after the words "District Judge," and in Section 250 and Section 254 (when it first occurs) after the word "Judge," the words "or District Delegate" shall be inserted respectively.

## ACT No. IX of 1881.

(*Passed on the 25th February* 1881).

An Act to amend the Administrator-General's Act, 1874.

Preamble.

WHEREAS Hindus, Muhammadans, and Buddhists are exempted from the operation of certain provisions of the Administrator-General's Act, 1874, but are subject to the operation of certain other provisions of the said Act, and it is expedient that Parsis should be exempted from, and be subject to the operation of the said Act to the same extent as Hindus, Muhammadans, and Buddhists; and whereas it is expedient to amend the said Act in other particulars hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Administrator-General's Act, 1881":

Commencement

and shall come into force at once.

Amendment of Sections 16, 17, 18, and 64 of Administrator-General's Act, 1874.

2. In Sections 16, 17, 18, and 64, respectively, of the said Act, between the word "Muhammadan" and the words "or Buddhist," wherever they occur, the word "Parsi" shall be inserted.

New section inserted after Section 23 of same Act.

3. After section twenty-three of the same Act, the following section shall be inserted:—

(*See Act II of* 1874, *S.* 23*A*, *ante*, *p.* 847).

New section substituted for Section 28 of same.

4. For section twenty-eight of the same Act the following section shall be substituted:—

(*See Act II of* 1874, *S.* 28, *ante*, *p.* 848).

Amendment of Sections 36 and 37 of same.

5. In section thirty-six of the same Act, the words "not being a Hindu, Muhammadan, or Buddhist, or exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act" shall be repealed; and in section thirty-seven of the same Act, after the words "effects of the deceased," the following shall be inserted, namely:—"and such deceased was not a Hindu, Muhammadan, Parsi, or Buddhist, or exempted under the Indian Succession Act, 1865, section three hundred and thirty-two, from the operation of that Act."

Amendment of Section 38 of same.

6. In section thirty-eight of the same Act, for the words "such certificate" the words "certificate under section thirty-six or thirty-seven" shall be substituted; and the words "which oath or affirmation the Administrator-General is hereby authorized to administer or take" shall be repealed.

New section inserted after Section 55 of same.

7. After section fifty-five of the same Act, the following section shall be inserted:—

(*See Act II of* 1874, *S.* 55 *A.*, *ante*, *p.* 850).

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New section inserted before Section 61 of same.

8. Before section sixty-one of the same Act the following section shall be inserted :—

(*See Act II of* 1874, *S.* 60 *A.*, *ante*, *p.* 858).

Saving of letters and certificates already granted.

9. Nothing herein contained shall affect any probate, letters of administration, or certificate granted or vested under the said Act before the passing of this Act.

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## ACT No. XI of 1881.

(*Passed on the* 25*th February* 1881).

An Act to give power to prohibit the levy of Municipal taxes in certain cases.

Preamble.

WHEREAS it is expedient to empower the Governor-General in Council to prohibit, in certain cases, the levy of municipal taxes payable by persons in the military service or by the Secretary of State for India in Council; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Municipal Taxation Act, 1881."

Local extent.

It extends to the whole of British India:

Commencement.

and shall come into force at once.

"Municipal Committee" defined.

2. In this Act "Municipal Committee" includes a Municipal Corporation or a body of Municipal Commissioners constituted by or under the provisions of any enactment for the time being in force.

Power to prohibit levy of tax.

3. Notwithstanding anything contained in any enactment for the time being in force, the Governor-General in Council may, by an order in writing, prohibit the levy by a Municipal Committee of any specified tax—

(*a*) payable by any person subject to the Army Discipline and Regulation Act, 1879, or the Indian Articles of War, who is compelled by the exigencies of military duty to reside within the limits of a municipality; or

(*b*) payable by the Secretary of State for India in Council.

The Governor-General in Council may, by a like order, rescind any such prohibition.

NOTES.—(*a*). I am directed to forward for the information of his Honor the Lieutenant-Governor, copy * of an order issued under the provisions of Section 3 of Act XI of 1881 (The Municipal Taxation Act), prohibiting the levy of certain Municipal taxes from Military officers and men of the classes therein prescribed.

*No. 162 dated 18th November 1881.

2. The Governor-General in Council does not propose to issue any general order under clause (*b*) of Section 3 of the Act regarding the exemption of Government property from Municipal taxation: but his Excellency in Council will be prepared to take action under that clause if any case of inordinate assessment of Government property is brought to notice for which redress cannot be obtained under the ordinary Municipal law.

3. I am to take this opportunity of forwarding a revised order,† issued under Section 24 of Act III of 1880 (The Cantonments Act), in which the description of persons to be exempted in Cantonments from certain Municipal taxes has been made to correspond with that adopted in the order under the Municipal Taxation Act, 1881. This order supersedes that circulated with the communication from this Department, No. 1—38-47, dated the 24th April 1880.

†No. 163, dated 18th November 1881.

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No. 162

Extract from the Proceedings of the Government of India, Home Department (Municipalities —No. 162, under date Simla, the 18th November 1881.

Read—

Section 3 of Act XI of 1881 (The Municipal Taxation Act, 1881).

ORDER.

In exercise of the powers conferred by Section 3 of Act XI of 1881 (The Municipal Taxation Act, 1881), the Governor-General in Council is pleased to prohibit the levy by any Municipal Committee upon the persons described below of taxes of the following kinds :—

*Persons exempted.*

All persons exclusively in Military employ, or belonging to any department directly attached to the Army or to the Public Works Department, Military Branch, being persons subject to the Army Discipline and Regulation Act, 1879, or the Indian Articles of War, and compelled by the exigencies of Military duty to reside within the limits of a Municipality.

*Taxes from the operation of which exemption is granted.*

(1) Municipal taxes on salaries.
(2) Municipal taxes on professions, trades, callings, offices, or appointments.
(3) Municipal taxes on horses, mules, or ponies kept for Military duty.
(4) Municipal tolls leviable on any ferry or road in respect of animals or vehicles kept or used for Military duty.—(*Government of India No.* 5—168, *dated* 18*th November* 1881).

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(*b*). The following is published for general information in continuation of Notification No. 421, dated 1st December 1881 :—

No. 2-56, dated Simla, the 17th June 1885.

From—A. MACKENZIE, Esq., C.S., Secy. to the Govt. of India, Home Dept.,

To—The Offg. Secretary to Government, Punjab.

I AM directed to invite attention to paragraph 2 of Home Department Circular letter No. 5—165-173, of the 18th November 1881 (quoted in the margin), regarding the exemption of Government property from Municipal taxation. As it appears possible that the wording of the paragraph in question may convey a misapprehension of the intention of the Government of India regarding the application of the provisions of clause (*b*), Section 3 of Act XI. of 1881, the Governor-General in Council considers it desirable to explain that that clause was framed mainly with a view to enable the Government to deal with cases of assessment of Government property when the property to be assessed is from its nature such as not to admit of the application of ordinary principles in assessing the payment thereon of any particular tax; as, *e.g.*, when the assessment is on the letting value, and the property is of such a nature that it is difficult to conceive its being let and impossible to form any estimate of the rent that would be obtained for it if the Government offered to let it. It was the intention of the Act of 1881 to enable the Government to deal with such cases, failing an amicable (though possibly arbitrary) settlement with the local authority concerned, by *at once* issuing an order of prohibition under Section 3, clause (*b*), and appointing an officer under Section 5, without entering upon any formal argument or attempting to contest the matter by way of appeal or otherwise. In cases, however, in which there are no such peculiar circumstances attaching to the Government property assessed as, *e.g.*, where it consists of ordinary dwelling-houses, the assessment should either be accepted or if it appears unduly high, proceedings should be taken to obtain redress under the ordinary Municipal law, and recourse should not be had to the special provisions of the Act of 1881.

The Governor-General in Council does not propose to issue any general order under clause (*b*) of section 3 of the Act regarding the exemption of Government property from Municipal taxation; but His Excellency in Council will be prepared to take action under that clause, if any case of inordinate assessment of Government property is brought to notice for which redress cannot be obtained under the ordinary Municipal law.

2. I am to request that with the permission of His Honor the Lieutenant-Governor, the above principles may be carefully borne in mind if any question should arise in the Punjab as to the application of the Act.

(*Punjab Government Notification No.* 293, *dated* 22*nd July* 1885, *Punjab Gazette of* 30*th idem, Part I, p.* 562).

Secretary of State in Council to pay taxes referred to in Section 3, clause (*a*).

4. So long as any order made under section three, prohibiting the levy of a tax on any person mentioned in clause (*a*) of that section, remains in force, the Secretary of State for India in Council shall be liable to pay to the Municipal Committee mentioned in the order the amount which otherwise would have been payable to such Committee by such person:

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Provided that the said Secretary of State in Council shall not be liable to pay any sum in respect of any horse which such person is bound, by the regulations of the service to which he belongs, to keep.

Payments to be made in lieu of taxes referred to in Section 3, clause (*b*).

5. So long as any order made under section three, prohibiting the levy of any tax payable by the Secretary of State for India in Council, remains in force, the said Secretary of State in Council shall be liable to pay to the Municipal Committee, in lieu of such tax, such sums (if any) as an officer from time to time appointed in this behalf by the Local Government may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

Decision of questions arising under this Act.

6. If any question arises whether any duty is military duty within the meaning of this Act, the decision of the Governor-General in Council thereon shall be conclusive.

If any question arises whether any person is compelled as aforesaid to reside within the limits of a municipality, or is bound as aforesaid to keep any horse, the decision thereon of such authority as the Governor-General in Council may, from time to time, appoint in this behalf, shall be conclusive.

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## ACT No. XV of 1881.

(*Passed on the 15th March 1881*).

An Act to regulate labour in Factories.

Preamble.

WHEREAS it is expedient to regulate labour in factories; It is hereby enacted as follows:—

*Preliminary.*

Short title.

1. This Act may be called "The Indian Factories Act, 1881.

Commencement.
Local extent.

It applies to the whole of British India, and shall come into force on the first day of July 1881.

Interpretation-clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"factory."

"factory" means any premises (other than indigo-factories or premises situated on, and used solely for the purpose of, a tea or coffee plantation) wherein is carried on for not less than four months in the whole in any one year, any process for, or incidental to, making, altering, repairing, ornamenting, finishing, or otherwise adapting for use, transport, or sale, any article or part of an article; and

(*a*) wherein steam, water, or other mechanical power is used in aid of any such process; and

(*b*) wherein not less than one hundred persons are on any day simultaneously employed in any manual labour in, or incidental to, any such process; and

every part of a factory shall be deemed to be a factory, except any part used exclusively as a dwelling:

"child."

"child" means a person under the age of twelve years:

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"mill-gearing." "mill-gearing" includes every shaft, whether upright, oblique, or horizontal, and every wheel, drum, pulley, rope, driving strap, or band, by which the motion of the first moving power is communicated to any machine:

"employed." a child who works in a factory whether for wages or not, either in a manufacturing process or handicraft, or in cleaning any part of the factory used for any manufacturing process or handicraft, or in cleaning or oiling any part of the machinery, or in any other kind of work whatsoever incidental to, or connected with, the manufacturing process or handicraft, or connected with the article made or otherwise the subject of the manufacturing process or handicraft therein, shall be deemed to be employed therein within the meaning of this Act.

*Inspectors and certifying Surgeons.*

Inspectors. 3. The Local Government may in its discretion, by notification in the official Gazette, appoint such persons as it thinks fit to be Inspectors of factories within such local limits as it may assign to such Inspectors, and may suspend or dismiss any person so appointed.

In default of such appointment, the Magistrate of the district shall, in virtue of his office, be Inspector of all factories (if any) in the district.

Such Inspectors shall be deemed public servants within the meaning of the Indian Penal Code; and shall be officially subordinate to such authority as the Local Government may, from time to time, indicate in this behalf.

NOTE.—All Magistrates of districts are to be Inspectors of factories within their districts and the Sanitary Commissioner of the Punjab is to be Inspector of Factories within the province. (*Notification No.* 4159, *dated* 18*th November* 1881, *Punjab Gazette of* 24*th idem*).

Powers of Inspector. 4. An Inspector of factories may, within the local limits for which he is appointed,

(*a*) enter, with such assistants (if any) as he thinks fit, any factory whenever he has reason to believe that any person is employed therein;

(*b*) make such examination of the premises and machinery, and of the registers hereinafter prescribed, and take on the spot or otherwise such evidence of any person as such Inspector may deem necessary for carrying out the provisions of this Act;

(*c*) order that any person shall not be employed in a factory when he has reason to believe that such employment would be in contravention of this Act—

until the age of such person has been certified, in the manner hereinafter provided, to be above seven years; or,

for more than the time allowed by this Act for the employment of children, until his age has been so certified to be above twelve years.

Certifying surgeons. 5. The Civil Surgeon or such other person practising medicine or surgery as the Local Government may, from time to time, appoint in this behalf for any local area (hereinafter called the certifying surgeon) shall, at the request of any person employed or desirous of being employed in a factory situate in such local area, or of the parent or guardian of such person, examine such person and grant him a certificate, stating whether his age, as nearly as it can be ascertained from such examination, is above or below seven years, or twelve years, as the case may be.

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*Children.*

Age of employment.

6. No child shall be employed in any factory if he is under the age of seven years.

Hours of employment for children.

7. No child shall be actually employed in any factory more than nine hours in any one day.

And no child shall be employed in any factory on any day without an interval, or intervals, amounting in the whole to at least an hour being allowed to him for food and rest.

The times at which such intervals shall be allowed, and the length of each interval, shall be fixed by the Local Government for each factory, after ascertaining, as far as possible, the existing practice in such factory and the wishes of the occupier thereof.

The occupier shall set up and maintain, in some conspicuous place in the factory, a printed or written notice in English and the languages of the district in which the factory is situate, shewing the times at which such intervals shall be allowed and the length of each interval.

A child shall not be deemed to be employed within the meaning of the first clause of this section during any interval allowed for food or rest.

Child to be allowed holidays.

8. Every occupier of a factory in which children are employed shall, before the beginning of each month, fix not less than four days in such month on which no child shall be employed in such factory, and shall forthwith give notice of the days so fixed to such officer as the Local Government may, from time to time, appoint in this behalf.

An occupier of a factory may, with the previous sanction of the Inspector, substitute, for any day fixed under this section, another day in the same month.

No child shall be employed in such factory on a day fixed under this section, unless when another day has been substituted for such day as hereinbefore provided, in which event no child shall be employed in such factory on the day so substituted.

Not to be employed in two factories on same day.

9. No occupier of a factory shall employ therein on any day any child who has to his knowledge already been employed on the same day in any other factory.

Not to be engaged in certain dangerous work.

10. No occupier of a factory shall allow any child to clean any part of the mill-gearing or machinery of such factory, while the same is in motion, or to work between the fixed and traversing parts of any self-acting machine while such machine is in motion by the action of the steam-engine, water-wheel, or other mechanical power, as the case may be.

Register of children in a factory.

1. The Local Government may direct any occupier of a factory to keep, in such form and with such particulars as such Government may, from time to time, prescribe, registers of the children (if any) employed in such factory, and of their respective employments.

*Fencing.*

Fencing.

12. (*a*) Every fly-wheel directly connected with a steam-engine, or water-wheel, or other mechanical power in any part of a factory, and every part of a steam-engine or water-wheel,

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(*b*) every hoist or teagle near which any person is liable to pass or be employed, and

(*c*) every other part of the machinery or mill-gearing of a factory which may, in the opinion of the local Inspector, be dangerous if left unfenced, and which he may have ordered to be fenced,

shall, while the same is in motion, be kept by the occupier of such factory securely fenced.

Any order under clause (*c*) may be set aside, on appeal or otherwise, by the Local Government or such authority as it may appoint in this behalf.

*Notices.*

Notice to be given of accident.

**13.** When any accident occurs in a factory causing death or bodily injury, whereby the person injured is prevented from returning to his work in the factory during forty-eight hours after the occurrence of the accident, the occupier of such factory, or in his absence, his principal agent in the management of such factory, shall send such notice of such accident to such authorities in such form and within such time as the Local Government may, from time to time, by rule direct.

Person beginning to occupy factory to give notice.

**14.** Every person shall, within one month after he begins to occupy a factory, send to the local Inspector a written notice containing the name of the factory, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work performed in such factory, the nature and amount of the moving power therein, and the name of the person (if any) under whom the business of the factory is to be carried on.

*Penalties.*

Penalties.

**15.** Any person who, in breach of this Act, or of any order or rule made hereunder—

(*a*) employs any child in any factory ;

(*b*) neglects to set up or maintain the notice required by section seven, or to fix the days referred to in section eight ;

(*c*) allows any child to perform the work forbidden by, or to work in contravention of, section ten ;

(*d*) neglects to keep a register in manner prescribed under section eleven ;

(*e*) neglects to fence any machinery or mill-gearing in any factory ; or

(*f*) neglects to give any notice,

shall be punished with fine which may extend to two hundred rupees:

Provided that—

1st, no prosecution under this section shall be instituted except by, or with the previous sanction of, the local Inspector ; and

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*2nd*, no person shall be liable under this section to more than one penalty for any one description of offence committed on the same day, except where two or more children are employed contrary to the provisions of this Act, in which case one penalty may be imposed in respect of each child so employed.

Only one penalty for same kind of offence on one day.

16. Where an act or omission would, if a person were under seven or twelve years of age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under such age, it shall lie on the accused to prove that such person is not under such age.

Burden of proof as to age.

A declaration in writing by a certifying Surgeon that he has personally examined a person employed in a factory, and believes him to be under or over the age set forth in such declaration, shall, for the purposes of this Act be admissible as evidence of the age of that person.

Certifying Surgeon's declaration in writing.

17. Every occupier of a factory shall be deemed primarily liable for any breach therein of the provisions of this Act, but he may discharge himself from such liability by proof to the satisfaction of the local Inspector, before prosecution therefor, that such breach was committed by some other person without his knowledge or consent ; and the person committing such breach shall be liable therefor.

Occupier primarily liable for breaches of Act.

*Miscellaneous.*

18. The Local Government may, from time to time, make rules consistent with this Act to provide for—

Power to make rules.

(*a*) the fencing of machinery and mill-gearing in factories ;

(*b*) the inspection of factories ;

(*c*) the manner in which appeals under this Act shall be presented and heard ; and

(*d*) otherwise carrying out the provisions of this Act.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.

19. This Act shall apply to factories belonging to the Crown ; provided that, in case of any public emergency, the Governor-General in Council or the Local Government may, by an order in writing, exempt any such factory from this Act to such extent and during such period as the Governor-General in Council or the Local Government, as the case may be, thinks fit.

Crown factories.

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NOTE.—Under the provisions of Section 18 of Act XV of 1881 (The Indian Factories Act), the Hon'ble the Lieutenant-Governor is pleased to make the following rules for the better control of factories situated within the limits of the Punjab and its Dependencies, in supersession of the rules published with *Punjab Government Gazette* Notification No. 4160, dated 18th November 1881.

*Rules under Section 18 of Act XV of 1881.*

1. The terms "factory," "child," "mill-gearing" and "employed" when used in these rules, or in any supplementary rules that may hereafter be made under the Act, shall have the meaning given to them in the Act. "Inspector" means the Magistrate of the district or an Inspector appointed by the Lieutenant-Governor under Section 5 of the Act.

2. Every Inspector who is not himself the Magistrate of the district shall be officially subordinate to the Magistrate of the district to which he is appointed.

3. Each Inspector shall keep a register of all factories within his jurisdiction in the Form A attached to these rules.

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4. On the publication of these rules, the Inspector shall send, through the post under registered cover, a notice to the occupier of every factory within his jurisdiction intimating his intention of placing such factory upon his register of factories.

5. Any person served with a notice under rule 4 who considers that his premises do not fall within the definition of a factory given in the Act may, within 15 days of the receipt of such notice, forward to the Inspector a statement setting forth his objections to the registration of his premises as a factory. The Inspector shall consider and dispose of such objections after making such enquiry as he may deem necessary, and shall make up his register of factories in accordance with the provisions of the Act.

6. The Inspector may at any time serve a notice as provided in rule 4, upon the occupier of any factory which is not already entered in his register of factories; and the provisions of rule 5 shall apply to the subsequent proceedings in all such cases.

7. When any premises cease to be occupied as a factory, the occupier may give notice of the fact to the Inspector, who shall, if satisfied that the Act is no longer applicable to such premises, remove them from his register of factories.

8. Every factory shall be inspected by the Inspector as often as he may deem sufficient and at least twice in each calendar year, and at each inspection he shall muster all children employed on the premises, examine all registers required to be kept under the Act, and see that all orders respecting the secure fencing of machinery are being duly carried out. The Inspector may take with him as assistant or assistants any person or persons whom he may deem qualified to give a professional opinion as to the secure fencing of machinery and mill-gearing.

9. The Inspector shall keep a register of his inspections of each factory in the Form B. appended, in which he shall record all orders and remarks made by him on each occasion of his inspection.

10. A copy of every entry made under rule 5, and of every order passed by an Inspector under Section 4 (c) or Section 12 (c) of the Act, shall be furnished without delay to the occupier of the factory concerned. The despatch, through the post under registered cover, of the copy of such order shall be deemed to be sufficient service on the occupier of the factory of any order therein contained.

11. The occupier of a factory shall, if required by the Inspector, bring before him, on the occasion of any inspection, all children employed in the factory and any other persons in the service of such occupier whom the Inspector may wish to see.

12. Every occupier of a factory shall give notice to the Inspector of the four days fixed by him as monthly holidays for children under Section 8 of the Act.

13. Every order for the fencing of any part of the machinery or mill-gearing of a factory which an Inspector may pass under Section 12 (c) of the Act, shall state clearly what is required, so that the said machinery or gearing may be securely fenced, and shall specify a reasonable time within which what is required to be done shall be completed, and shall further give notice that if it shall not be so completed, the person responsible for the breach of order will be prosecuted under Section 15 of the Act.

14. An appeal shall lie to the Commissioner of the Division from every order of an Inspector made under rules 5 and 6 of these rules, and under Section 12 (c) of the Act. Such appeals must be submitted in writing within 15 days of the order appealed against; and the Inspector shall forward each such appeal to the Commissioner within 7 days of its presentation, with any remarks or explanations he may see fit to make. The Commissioner shall, on receipt, fix a day for disposing of the appeal and give due notice thereof to the appellant Provided that appeals against orders passed by an Inspector, under Section 12 (c) of the Act, shall, when such order relates to a Railway workshop, lie to the Consulting Engineer for Railways. No appeal will lie from the order of the appellate authorities, but Government may review any order mentioned in this rule either of an Inspector or of an appellate authority, and may issue any orders thereon which may seem proper. In order that effect may be given to the latter part of this rule, copies of all the orders referred to therein shall be transmitted to Government as soon as they are passed.

15. Notice of all accidents resulting in death, or from which the injury is evidently so severe that there is no reasonable hope that the injured person will be able to return to his work within 48 hours, should be given on the same day on which the accident occurs. Notice of accidents of a less severe character, but which nevertheless prevent the person injured from returning to his work within 48 hours of their occurrence, shall be given immediately on the expiry of the 48 hours' interval allowed by Section 13 of the Act. Such notice shall contain full information as to the nature and cause of the accident, and shall be sent by the occupier of the factory, or, in his absence, by his principal agent in the management of such factory, to the Magistrate of the district in which such factory is situated.

16. Occupiers of factories in which children are employed shall maintain a register of such children in the Form C attached to these rules.

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FORM A.

REGISTER OF FACTORIES.

(Under rule 3 of the rules under Section 18 of the Indian Factories Act, XV of 1881).

*N. B.*—This register should be re-written at the commencement of each calendar year.

DISTRICT. DIVISION.

| Serial Number. | Town, thanah, or other local division in which factory is situated. | Name or description of factory. | Nature of business carried on. | Name of occupier. | Number of persons ordinarily employed. | | | | Dates of inspection during the year 188 |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | *Adults.* | | *Children.* | | |
| | | | | | Men. | Women. | Male. | Female. | |
| | | | | | | | | | |

FORM B.

(Under rule 9 of the rules under Section 18 of the Indian Factories Act, XV of 1881).

DISTRICT. DIVISION.

| Number of factory in Register A. | Name or description of factory. | Name of occupier or Manager. | Date of inspection. | Number of persons at work on date of inspection | | | |
|---|---|---|---|---|---|---|---|
| | | | | *Adults.* | | *Children.* | |
| | | | | Men. | Women. | Male. | Female. |
| | | | | | | | |

FORM C.

REGISTER OF CHILDREN EMPLOYED IN FACTORY.

(Under rule 16 of the rules under Section 18 of the Indian Factories Act, 1881).

| Name of child. | Father's name, cast and residence. | Age of child. | Employment. |
|---|---|---|---|
| | | | |

REMARKS AND ORDERS.

(*Punjab Government Notification No.* 998, *dated 24th September* 1883, *Punjab Gazette of 27th idem, Part I, p.* 546).

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# ACT No. XVI of 1881.

(*Passed on the* 15*th March* 1881).

An Act to empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.

Preamble.

WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways leading to ports in British India, and to prevent the creation of such obstructions ; It is hereby enacted as follows ;—

Short title. Commencement.

1 This Act may be called "The Obstructions in Fairways Act, 1881 ;" and it shall come into force at once.

But nothing herein contained shall apply to vessels belonging to Her Majesty or hired by Her Majesty or by the Secretary of State for India in Council.

Local Government empowered to remove or destroy obstruction in fairway.

2. Whenever, in any fairway leading to any port in British India, any vessel is sunk, stranded, or abandoned, or any fishing-stake, timber, or other thing is placed or left, the Local Government of the part of British India in which such port is situate may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,

(*a*) cause such thing or any part thereof to be removed ; or,

(*b*) if such thing is of such a description or so situate that, in the opinion of the Local Government, it is not worth removing, cause the same or any part thereof to be destroyed.

Government entitled to expenses incurred in removing obstruction.

3. Whenever anything is removed under section two, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

Dispute concerning such expenses.

Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be decided by the Magistrate of the District or Presidency Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties ; and such decision shall be final.

Notice of removal to be given by Local Government.

4. The Local Government shall, whenever anything is removed under section two, publish in the local official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was so removed.

Things removed may, in certain cases, be sold.

5. If after publishing such notification, such thing is unclaimed, or

if the person claiming the same fails to pay the amount due for the said expenses and any customs duties or other charges properly incurred by the Local Government in respect thereof,

the Local Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

Proceeds how applied.

6. On realizing the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person

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appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same :

Provided that he makes the claim within one year from the date of the sale.

"Vessel" to include tackle, cargo, &c.

7. For the purposes of this Act, the term "vessel" shall be deemed to include also every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores, or ballast of a vessel, and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

Power to make rules to regulate and prohibit the placing of obstructions in fairways.

8. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, make rules to regulate or prohibit in any fairway leading to a port in British India, the placing of fishing-stakes, the casting or throwing of ballast, rubbish, or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will, in his opinion, cause, or be likely to cause, obstruction or danger to navigation.

Penalty for breach of such rules.

9. Whoever is guilty of any act or omission in contravention of the rules made under section eight, may be tried for such offence in any district or presidency-town in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Compensation payable in certain cases for damage caused under this Act.

10. Whenever the maintenance or creation of an obstruction in any fairway has become lawful by long usage or otherwise, and such obstruction is removed or destroyed under section two, or its creation is regulated or prohibited under section eight, any person having a right to maintain or create such obstruction shall be entitled to receive from the Secretary of State for India in Council reasonable compensation for any damage caused to him by such removal, destruction, regulation, or prohibition.

Every dispute arising concerning the right to such compensation or the amount thereof, shall be determined according to the law for the time being in force relating to like disputes in the case of land needed for public purposes and not otherwise ; and for the purposes of such law the fairway from or in which such obstruction was removed, or destroyed, or in which its creation was regulated or prohibited, shall be deemed to be a part of the presidency-town or district in which the port to which such fairway leads is situate.

Certain action of the Government previous to passing of this Act to be deemed to have been taken hereunder.

11. Whenever any obstruction in a fairway leading to a port in British India has been removed or destroyed, or whenever the creation of any such obstruction has been regulated or prohibited, by order of the Governor-General in Council or a Local Government, previous to the passing of this Act, such removal, destruction, regulation, or prohibition shall be deemed to have been effected under this Act.

Saving of other powers possessed by Government.

12. Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in this behalf.

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# ACT No. XVII of 1881.

(*Passed on the 25th May 1881*).

An Act to give effect to the Convention between the Governors-General of British India and Portuguese India regarding their respective systems of moneys, weights and measures.

Preamble.

WHEREAS by the fifth article of a Treaty of Commerce and Extradition, executed at Lisbon on the twenty-sixth day of December 1878, and ratified on the sixth day of August 1879, between His Most Faithful Majesty the King of Portugal and the Algarves and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, it was provided that the High Contracting Parties should use their best endeavours to establish between their respective systems of moneys, weights, and measures the harmony desirable for the development of commercial relations between their respective dominions:

And whereas by the same article it was further provided that the detailed measures to be adopted should form the subject of a separate Convention between the Governors-General of British India and Portuguese India, to be executed within two years from the date when the said Treaty came into force:

And whereas the said Treaty came into force on the fifteenth day of January 1880:

And whereas, in pursuance of the said recited article, the Convention set forth in the schedule hereto annexed has been made:

It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Portuguese Convention Act, 1881."

Local extent.

It extends to the whole of British India.

Commencement and continuance.

It shall come into force at once, and shall remain in force until the expiration of one year from the date of any notice which may be given under the fourteenth clause of the said Convention.

Provisions of Convention enacted.

2. The provisions of the said Convention, so far as they are binding upon the Government of British India, shall be deemed to have the force of law.

Act XXIII of 1870 to apply to coin and bullion made and brought for coinage to mint under Convention.

3. The provisions of the Indian Coinage Act, 1870, or any other law for the time being in force relating to coinage and the mint, shall, so far as they are consistent with the said Convention, apply to all coin made, and bullion brought for coinage to the mint, under the said Convention, as if such coin and bullion were respectively made and brought for coinage to the mint under the said Act.

## THE SCHEDULE.

Whereas, by the fifth article of a Treaty of Commerce and Extradition executed at Lisbon on the twenty-sixth day of December 1878, and ratified on the sixth day of August 1879, between His Most Faithful Majesty the King of Portugal and the Algarves, and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, it is provided that the High Contracting Parties shall use their best endeavours to establish between their respective systems of moneys, weights, and measures

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the harmony desirable for the development of commercial relations between their respective dominions; and whereas by the same article it is further provided that the detailed measures to be adopted shall form the subject of a separate Convention between the Governors-General of British India and Portuguese India to be executed within two years from the date when the said Treaty comes into force; and whereas the said Treaty came into force on the fifteenth day of January 1880:

In pursuance of the said article, the following Convention has been made:—

1. The Governor-General of Portuguese India shall adopt, in the Portuguese possessions in India, the monetary system of British India, for the time being in force, provided that the coins shall have on one side the effigy of the King of Portugal, with the legend *Ludovicus I, Portugaliæ et Algarbiorum Rex*, around it, or such other effigy and legend as the said Governor-General may from time to time desire, and on the other side the value of each coin, the year of the Christian era, and the words *India Portugueza*.

2. Subject to the provisions of clause 7, so long as this Convention remains in force, the following coins and no others shall be struck for Portuguese India:—

*Silver.*—Rupee, weighing 180 grains troy;
Half-rupee, weighing 90 grains troy;
Quarter-rupee, weighing 45 grains troy;
Eighth of a rupee, weighing 22½ grains troy;

The standard fineness of the said silver coins shall be eleven-twelfths of fine silver and one-twelfth of alloy, subject to a remedy not exceeding the following:—

| | Remedy in weight. | Remedy in fineness. |
|---|---|---|
| Rupee ... ... ... | Five thousandths ... ... | Two thousandths. |
| Half-rupee ... ... ... | | |
| Quarter-rupee ... ... | Seven thousandths ... ... | Three thousandths. |
| Eighth of a rupee ... ... | Ten thousandths ... ... | |

*Copper.*—Half *tanga*, weighing 200 grains troy, and corresponding with the double pice or half-anna of British India;

Quarter *tanga*, weighing 100 grains troy, and corresponding with the pice of British India;

Eighth of a *tanga*, weighing 50 grains troy, and corresponding with the half-pice of British India;

*Real*, or twelfth of a *tanga*, corresponding with the pie of British India.

In the making of copper coins, a remedy shall be allowed not exceeding one-fortieth in weight.

The value in copper of one Portuguese rupee will be sixteen Portuguese *tangas*, sixty-four quarter *tangas* or pices, or one hundred and ninety-two *reales* or pies.

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3. The Portuguese silver and copper coins established by this Convention shall be issued by the authority of the Government of Portuguese India, and shall be coined on behalf of the said Government by the Government of British India, and by no other agency whatever.

The Governor-General of Portuguese India engages that, while this Convention continues in force, no coins other than those established by this Convention shall be coined in or imported into Portuguese India.

4. With the view of obtaining in the shortest possible time the desired uniformity of coinage throughout the respective Indian possessions of the High Contracting Parties, the Governor-General of British India engages that the Government of British India shall—

(*a*) forego, for the period of three years from the date on which this Convention comes into force, all duty or other charge for melting, cutting, refining, or recoining any coin of the existing Portuguese Indian silver currency tendered for recoinage into Portuguese Indian coin ;

(*b*) deliver, for the period of five years from the date of this Convention copper coins of the Portuguese copper currency established by this Convention in exchange for copper coins of the existing Portuguese Indian copper currency which may be brought to the said mint for the purpose of such exchange, at the value represented by such last-mentioned coins in the existing Portuguese currency. The relative representative value of the old and new coin to be thus exchanged on equal terms, and without charge for manufacture, shall if the Governor-General of Portuguese India so desires, be determined, once for all, by a mixed commission appointed in the manner provided in the sixteenth article of the above-cited Treaty ;

(*c*) advance to the Governor-General of Portuguese India, in the Portuguese currency established by this Convention, such sums in such denominations of coin, and in such instalments (if any), as the said Governor-General of Portuguese India may require : provided—

1*stly*.—That the amount of such advances outstanding at any time shall not exceed in the whole ten lakhs of rupees.

2*ndly*.—That an interval of two months shall be allowed for compliance with any such requisition, and that no such advance shall be made after the expiration of eighteen months from the date on which this Convention comes into force.

3*rdly*.—That every such advance shall be, within two months, repaid in coin of the existing Portuguese Indian currency, equivalent thereto in intrinsic value ascertained upon assay at Her Majesty's mint, or in copper coin of the existing Portuguese Indian currency valued as prescribed in clause (*b*).

5. The Governor-General of British India engages that the Government of British India shall—

(*a*) on presentation by or on behalf of the Governor-General of Portuguese India of any silver bullion or coin at the mint at Bombay, or at such other mint as the said Government from time to time appoints, deliver to the said Governor-General or his agent, after such interval as in the judgment of the Mint Master is necessary for the process of coinage, the produce of such silver bullion or coin, in the silver coin established by this Convention, subject always to the same duty, charges, fees, and regulations as are for the time being in force for the conversion into British Indian currency of bullion and coin presented at the said mint : provided that, save as provided in clause

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4, the said Government shall not be bound thus to deliver more than four lakhs of rupees in any one year ;

(*b*) coin for the Governor-General of Portuguese India the copper coins established by this Convention, to such amounts and in such denominations as the said Governor-General may require, upon payment of the value inscribed upon such coins in the silver coin established by this Convention or in British Indian rupees : provided that, saving as engaged in clause 4, the said Government shall not be bound thus to coin more than twenty thousand rupees' worth of such coin in any one year.

In lieu of any seignorage or profits which the Portuguese Government might otherwise claim on account of the coinage on their behalf provided by this clause, the Governor-General of British India engages to pay the Governor-General of Portuguese India an indemnity of four thousand rupees per annum, commencing from the first day of November, one thousand eight hundred and eighty-three, and continuing as long as this Convention remains in force.

6. All silver and copper Portuguese coins, coined under the provisions of this Convention, shall, while this Convention remains in force, be legal tender in payment or on account throughout British India to the same extent, and subject to the same exceptions in the case of coin which has been called in, or is under weight, or has been clipped, filed or defaced, as in the case of the corresponding silver and copper coins issued by the authority of the Government of British India for the time being in British India.

All silver and copper coin which has been issued by the authority of the Government of British India shall, to the said same extent and subject to the same exceptions, be a legal tender in payment or on account throughout Portuguese India.

7. The Governor-General of Portuguese India agrees that, if at any time while this Convention continues in force, the Government of British India should recall the whole body of British Indian coin corresponding to any description of Portuguese coin issued under this Convention, or change the monetary system of British India, he will, if requested by such Government so to do, recall all Portuguese coin of that description, or change in like manner, as the case may be, the monetary system of Portuguese India : provided that the expense incurred in recalling such coin or making such change shall be defrayed by the Government of British India.

8. When any silver coin, purporting to have been issued under the provisions of this Convention, is tendered to any officer of the Government of British India, authorized by that Government to act under this clause, and is deemed by such officer to be counterfeit, or to have been reduced in weight otherwise than by reasonable wearing, he may, by himself or another (subject to the rules which the said Government prescribes in this behalf), cut or break such coin and return the pieces to the person tendering the same, and the loss caused by such cutting and breaking shall be borne by such person.

9. When any such silver coin which has been called in is tendered to any officer of the Government of British India authorized by that Government to act under this clause, he may cut or break such coin, and shall receive it at the rate of one rupee per tola ; but the expense thus incurred shall, except when such coin has been recalled under clause 7, be borne by the Portuguese Government.

10. In like manner, when any British Indian coin which has been called in is tendered to any officer of the Government of Portuguese India

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authorized by that Government to act under this clause, he may cut or break such coin, and shall receive it at the rate of one rupee per tola, and the expense so incurred shall be borne by the Government of British India.

11. The Governor-General of Portuguese India engages to appoint an officer who will receive, while this Convention continues in force, from any person tendering the coin next hereinafter mentioned, all silver coin issued under this Convention which may have lost, by reasonable wearing, more than two per cent, and shall pay for the same at the rate of one rupee per tola.

12. Nothing in this Convention shall be held to limit the powers of His Most Faithful Majesty the King of Portugal and the Algarves to establish at any time such system of paper currency as he may deem fit.

The Governor-General of Portuguese India has the power for the present to issue the following paper money :—

Five-rupee notes, payable in copper.
Ten-rupee notes, payable in silver.
Twenty ditto.
Fifty ditto.
One hundred ditto.
Five hundred ditto.

The amount of paper money issued will never be above four per cent. of the value of the money in circulation, the Portuguese India Government notes being guaranteed by the Portuguese Government and payable to the bearer.

13. The Governor-General of Portuguese India engages that, whenever the Government of British India exercises in respect of British India generally, or of all the territories adjacent to Portuguese India, the powers conferred on it under a certain Act of the Governor-General of British India in Council, called "The Indian Weights and Measures of Capacity Act, 1871," then he, the said Governor-General of Portuguese India, will enforce throughout Portuguese India provisions similar to those of that Act.

14. This Convention shall come into force on the first day of November, one thousand eight hundred and eighty, and shall remain in force until the expiration of a year counting from the day on which one or other of the contracting parties shall have given notice to the other of its intention to put an end to it : provided that no such notice shall be given until four years after the date on which the Convention comes into force.

15. The Governor-General of Portuguese India undertakes that, in the event of this Convention being put an end to under clause 14 or otherwise, no coins resembling any of the coins struck under this Convention shall be struck in or imported into Portuguese India, or shall be struck under the authority of, or with the sanction of, His Most Faithful Majesty in any other place.

Done at Pangim on the twelfth day of April, one thousand eight hundred and eighty.

(Sd.) CAETANO ALDRE. D'ALMEIDA ALBUQUERQUE,
*Governor-General of Portuguese India.*

Done at Calcutta on the eighteenth day of March, one thousand eight hundred and eighty.

(Sd.) LYTTON,
*Viceroy and Governor-General of British India.*

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NOTE.—His Excellency the Governor-General in Council is pleased to republish for general information the following extract article six of a Convention, dated 12th April 1880, between their Excellencies the Governors-General of British India and Portuguese India, which has acquired the force of law within British India by Act XVII of 1881 :—

"All silver and copper Portuguese coins coined under the provisions of this Convention shall, while this Convention remains in force, be legal tender in payment or on account throughout British India to the same extent, and subject to the same exceptions in the case of coin which has been called in, or is under weight, or has been clipped, filed, or defaced, as in the case of the corresponding silver and copper coins issued by authority of the Government of British India for the time being in British India.

"All silver and copper coin which has been issued by the authority of the Government of British India shall, to the said same extent and subject to the same exceptions, be a legal tender in payment or on account throughout Portuguese India."

All Treasury and other Officers of Government are directed to treat the new Portuguese coins as legal tender accordingly.

(*Government of India No.* 791, *dated 25th May* 1881).

## Act No. XXII of 1881.

(*Passed on the 26th October* 1881).

An Act to amend the law relating to the Excise-revenue in Northern India, British Burma, and Coorg.

Preamble.

WHEREAS it is expedient to amend the law in force in Northern India, British Burma, and Coorg, relating to the production, sale, possession, and import of spirit, fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom ; It is hereby enacted as follows :—

### CHAPTER I.

### PRELIMINARY.

Short title.

1. This Act may be called "The Excise Act, 1881."

Local extent.

It extends to the territories administered respectively by the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces,*British Burma, Coorg, and Ajmere and Merwara ;

Commencement.

and it shall come into force on the first day of January 1882.

Repeal of Act IX of 1871.

2. On and from that day the Excise Act, 1871, shall be repealed, but all rules made, powers conferred, and licenses and farms granted under that Act, and in force on the same day shall be deemed to have been respectively made, conferred, and granted under this Act.

NOTE.—See Notes at end of the Act.

Interpretation clause.

3. In this Act—

"Chief Revenue-authority" :

(*a*) "Chief Revenue-authority" means—

in the territories administered by the Lieutenant-Governor of the North-Western Provinces—the Board of Revenue ;

in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of Burma—the Financial Commissioner ; and

* By Act XVIII of 1888, in all sections of this Act, except Section 1, in which the words "British Burma" occur, the word "Burma" has been substituted.

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in the territories respectively administered by the Chief Commissioners of Oudh, the Central Provinces, Coorg, and Ajmere and Merwara—the Chief Commissioner ;

NOTE.—As amended by Act XVIII of 1888.

"Collector" :

(b) "Collector" includes any revenue-officer in independent charge of a district and any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Collector under this Act ;

"Commissioner of Revenue" :

"Commissioner of Revenue" means any officer appointed by the Local Government to discharge, throughout any specified local area, the functions of a Commissioner of Revenue under this Act ;

"Magistrate" :

(c) "Magistrate" means any Magistrate exercising powers not less than those of a Magistrate of the second class, or any Magistrate of the third class specially authorized in this behalf by the Magistrate of the District ;

"Place" :

(d) "Place" includes also house, boat, and raft ;

"Tari" :

(e) "Tari" means the sap of any kind of palm-tree ;

"Fermented liquor" :

(f) "Fermented liquor" means malt liquor, wine, pachwai, and fermented tari, and, in any provision of this Act, shall, if the Local Government, subject to the control of the Governor-General in Council, so directs, include any other fermented liquor, and also tari though it may not have perceptibly begun to ferment ;

NOTE.—By virtue of the powers conferred upon him by Section 3 *(f)* of Act XXII of 1881 (The Excise Act), the Hon'ble the Lieutenant-Governor is pleased to declare, in supersession of *Punjab Government Gazette* Notification No. 23 S., dated 20th May 1885, that the decoction commonly known as *Lahan*, of whatsoever materials such decoction may be composed, shall be included as a fermented liquor in all the sections of the said Act. (*Punjab Government Notification No. 95, dated 12th January* 1886, *Punjab Gazette of 14th idem, Part I, p.* 13).

See Financial Commissioner's Circular No. 4 of 1886.

"Spirit" :

(g) "Spirit" means any liquor containing alcohol obtained by distillation ;

"Intoxicating drugs" :

(h) The expression "intoxicating drugs" means ganja, bhang, charas, and every preparation and admixture of the same ;

"Tola" :

(i) "Tola" means a weight of one hundred and eighty grains Troy ;

"Ser" :

(j) "Ser" means a weight of eighty tolas ;

"Retail" :

(k) The articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,—

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles ;

country spirit, one ser, and in Burma one reputed quart bottle ;

country fermented liquor, four sers, and in Burma four reputed quart bottles ;

bhang, or any preparation or admixture thereof, one quarter of a ser;

ganja or charas, or any preparation or admixture thereof, five tolas ;

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"Wholesale": If sold in larger quantities they shall be deemed to be sold wholesale.

"Country spirit:" "Foreign spirit." In any case in which doubt arises, the Local Government may decide what for the purposes of this Act shall be deemed to be "country spirit," "country fermented liquor," "foreign spirit," and "foreign fermented liquor"; and such decision shall be binding on the Courts.

Saving of Acts XVI of 1863 and III of 1880.

4. Nothing herein contained shall affect Act No. XVI of 1863 (*to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry*) or the Cantonments Act, 1880.

## CHAPTER II.

### PRODUCTION OF SPIRIT, FERMENTED LIQUOR, AND INTOXICATING DRUGS.

Manufacture of spirit and liquor without license prohibited.

5. No person shall construct, work, or possess a distillery, still, or brewery, or manufacture fermented liquor, in any district except under a license granted by the Collector or by a person authorised by the Collector to grant such license, and in accordance with the conditions (if any) contained therein.

Power to establish distilleries for country spirit.

6. The Collector may, with the previous sanction of the Chief Revenue-authority, from time to time,—

(*a*) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established,

(*b*) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him.

Duty on spirit.

7. No spirit shall be removed from any distillery licensed under section five or established under section six, until—

(*a*) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or

NOTE.—Clause (*a*) is as enacted by Act IX of 1885, Section 2. See also Act IX of 1885 Section 4.

(*b*) a bond for such duty has been executed, or

(*c*) a duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor-General in Council, may from time to time direct.

Power to make rules as to distilleries and breweries licensed under Section 5.

8. The Chief Revenue-authority may, from time to time, make rules as to—

(*a*) the granting of licenses for distilleries, stills, and breweries under section five;

(*b*) the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work;

(*c*) the size and description of the stills in such distillery;

(*d*) the storing and passing out of the spirit made in such distillery, and the contents of the passes;

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(e) the inspection and examination of the distillery and warehouses, and of the spirit made and stored therein ;

(f) the furnishing of statements of the spirit, and of the stills, coppers, casks, and other utensils, in the distillery.

And for distilleries established under Section 6.

9. The Chief Revenue-authority may, from time to time, make rules as to—

(a) the management of distilleries established under section six, and in particular as to the conditions on which any materials to be used in making spirit may be brought into such distillery ;

(b) the conditions on which spirit may be made in such distilleries ; and

(c) the storing and passing out of the spirit so made, and the contents of the passes.

Sanction to rules under Sections 8 and 9.

10. Except in the territories respectively administered by the Chief Commissioners of Oudh, the Central Provinces, Coorg, and Ajmer and Merwára, the sanction of the Local Government is required to validate rules under sections eight and nine.

NOTE.—As amended by Act XVIII of 1888.

Production of intoxicating drugs.

11. In Burma, the cultivation of hemp and the preparation of intoxicating drugs therefrom are prohibited except under, and in accordance with, a license granted by such officer as the Chief Commissioner may from time to time appoint in this behalf.

In the other territories to which this Act extends, the Chief Revenue-authority may, from time to time, make such rules to restrict and regulate the cultivation of hemp, and the preparation of intoxicating drugs therefrom, as it may deem necessary to secure the duty leviable in respect of those drugs.

## CHAPTER III.

### SALE OF SPIRIT, FERMENTED LIQUOR, AND INTOXICATING DRUGS.

Spirit, fermented liquor and drugs not to be sold without license.

12. No spirit, fermented liquor, or intoxicating drugs shall be sold except under, and in accordance with the terms of, a license granted under the provisions hereinafter contained :

Proviso.

Provided as follows :—

(a) nothing in this section applies to the sale of any foreign spirit, or foreign fermented liquor, legally procured by any person for his private use, and sold by him, or by auction on his behalf or on behalf of his representatives in interest, upon his quitting a station, or after his decease ;

(b) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may from time to time prescribe, a general license authorizing them to sell foreign spirit, and foreign fermented liquor, wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district ;

(c) any person making or producing country spirit or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rule from time to time made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor ;

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(*d*) any cultivator of the hemp plant may sell any intoxicating drug prepared from his plants to any person licensed under this Act to sell the same, or to any person authorized to purchase the same by the Collector's order in writing.

Licenses how granted.

13. Subject to the rules made by the Chief Controlling Revenue-authority under the power hereinafter conferred, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail, and for the retail sale of country spirit or country fermented liquor, and (except in Burma) of intoxicating drugs, within his district or any part thereof, or at any place therein.

Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs, wholesale, and licenses for the sale, in Burma, of intoxicating drugs, retail, shall be granted only by such officer as the Local Government from time to time appoints in this behalf.

Power to cancel license for cause specified therein.

Any license granted under this section may be cancelled by the Collector for any cause specified therein.

Power to cancel license for other causes.

14. Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor, or intoxicating drugs should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days, and shall either give fifteen days' previous notice of his intention to cancel the license, or shall in addition to remitting such sum as aforesaid, make such compensation for default of notice as the Commissioner of Revenue or Chief Revenue-authority directs.

On the expiration of such notice, or the payment of such additional compensation, the Collector may cancel the said license.

Surrender of retail license.

15. Any retail vendor licensed under this Act may surrender his license on the expiration of one month's previous notice given by him to the Collector of his intention to surrender the same, and on payment of such sum, not exceeding the amount of the license-fee for six months, as the Collector may fix in this behalf.

If the Collector is satisfied that there is a sufficient reason for surrendering a license he may remit the sum so fixed.

Power to farm fees.

16. The Collector may, with the sanction of the Chief Revenue-authority, let in farm—

(*a*) the fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (except in Burma) of intoxicating drugs ;

(*b*) the right to manufacture, in any district or part of a district in which no distillery is established under section six, country spirit or country fermented liquor.

Farmer to grant licenses.

When the fees so leviable, or the right to manufacture such spirit or liquor, or both, are or is let in farm, the farmer may, subject to such reservations or restrictions as the Collector, with the sanction of the Chief Revenue-authority, may, from time to time, make or impose, grant licenses for the retail sale, or for the manufacture, or for both, as the case may be, of such articles

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within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form, and on such day or days in each year, as the Chief Revenue-authority may, from time to time, prescribe in this behalf.

List of licenses granted by farmer to be filed.

Farm may be cancelled.

17. The Collector may, with the sanction of the Chief Revenue-authority, cancel any farm granted under this Act.

Compensation to farmers in certain cases.

18. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine.

Recovery of arrears by farmers.

19. Every farmer under this Act may use the same means and processes for the recovery of any arrear of fees due to him from any retail vendor as may be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants.

Power to regulate supply of tari and intoxicating drugs to licensed vendors.

20. The Chief Revenue-authority may, from time to time, make rules to regulate the mode in which tari shall be supplied to licensed vendors of the same, and the grant of licenses or passes to persons possessing or transporting intoxicating drugs for the licensed vendors of such drugs.

## CHAPTER IV.

### Possession of Spirit, Fermented Liquor, and Intoxicating Drugs.

Possession of spirit, &c.

21. No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section three, clause (*k*), in respect of such spirit or liquor, unless he is permitted to manufacture or sell the same, or he holds a pass therefor from the Collector or from some other officer empowered by the Local Government to grant such passes.

Proviso.

Nothing in this section extends to –

(*a*) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouseman as such, or purchased by any person for his private use and not for sale, or

(*b*) tari intended to be used for the manufacture of gur or molasses.

Possession of intoxicating drugs.

22. In Burma no person shall have in his possession any intoxicating drugs except under, and in accordance with, the terms of a general exemption granted by the Chief Commissioner or a license granted by such officer as the Chief Commissioner may, from time to time, appoint in this behalf.

In the otherterritories to which this Act extends, no person shall have in his possession any larger quantity of such drugs than that specified in section three, clause (*k*), in respect of such drugs, unless he is permitted to manufacture or sell the same.

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## CHAPTER V.

### IMPORT OF SPIRIT.

Spirit and fermented liquor from foreign territory subject to duty.

23. (1) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof—

(*a*) if the Local Government has fixed a duty under clause (*a*) of Section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or

(*b*) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

(2) The provisions of sub-section (1) with respect to spirit shall apply to fermented liquor also, with this modification that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1882.

(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.

NOTE.—As enacted by Act II of 1887, Section 5.

Under the above section the Resident in Kashmir for the time being has been appointed the officer to grant passes for the import into the Punjab of spirits and fermented liquor manufactured in Kashmir. (*No.* 1048, *dated* 16*th May* 1888, *Punjab Gazette of* 17*th idem Part I, p.* 416).

See Note (*g*) at the end of the Act.

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## CHAPTER VI.

### OFFICERS AND THEIR POWERS.

Collectors may appoint excise-officers.

24. The Collector may appoint persons, by name or by virtue of their office, to be officers for the collection of the excise-revenue and for the prevention of offences against this Act; and the officers so appointed shall, in addition to their ordinary designations (if any), be styled excise-officers.

Recovery of arrears of fees.

25. The Collector may recover any amount due to the Government under this Act or the rules made hereunder, by distress and sale of the moveable property of the person from whom such amount is due or of his surety, or by any other process for the time being in force for the recovery of arrears of land-revenue due from landholders or from farmers of land or their sureties.

Power of excise-officers to inspect shops.

26. Any excise-officer may enter and inspect at any time by day or by night the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country spirit or the sale of country spirit, country fermented liquor, or intoxicating drugs.

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To arrest persons carrying spirit, &c., liable to confiscation.

27. Any excise-officer may stop and detain any person carrying any spirit, fermented liquor, or intoxicating drug liable to confiscation under this Act;

and may seize such spirit, liquor, or drug, together with any vessels packages, or coverings in which it is contained, and any animals and conveyances used in carrying it;

and may also arrest the person in whose possession such spirit, liquor, or drug is found.

To arrest persons in possession of article liable to confiscation, and to seize article.

28. Any excise-officer in the receipt of a monthly salary of not less than ten rupees, or who receives an annual remuneration equivalent to such salary, may arrest any person having in his possession any article liable to confiscation under this Act, or engaged in the unlawful sale of any spirit, fermented liquor, or intoxicating drug, and may seize such article, spirit, liquor, or drug.

NOTE.—As amended by Act VI of 1885, Section 1.

To search on information of illicit manufacture or possession.

29. Whenever any excise-officer in receipt of such monthly salary or annual remuneration as aforesaid has reason to believe, from information given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured, or any article liable to confiscation under this Act is kept or concealed,

such officer may, after sunrise and before sunset (but always in the presence of an officer of police in the receipt of a monthly salary of not less than ten rupees unless the excise-officer is himself such an officer of police), enter into such place,

and in case of resistance may break open any door and force and remove any other obstacle to such entry, and may seize and carry away such spirit or article,

and may also arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping and concealing of such article.

NOTE.—As amended by Act VI of 1885, Section 2.

Collector may issue warrant of arrest in certain cases.

30. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing, or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act.

Collector may issue search-warrant.

31. The Collector may issue his warrant for the search of any place in which he has reason to believe either from information in writing, or from the proceedings in any other case under this Act or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor, or intoxicating drug, liable to confiscation under this Act, is kept or concealed.

Special warrant authorizing search at night.

Such warrant may be executed by any excise-officer in the receipt of a monthly salary of not less than ten rupees, at the time and in the manner prescribed in section twenty-nine.

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Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any excise-officer as aforesaid in the manner prescribed in section twenty-nine, and shall cease to be in force at sunrise on the day next following.

Excise-officer to report arrest, &c ; and to take person arrested to Magistrate.

32. Whenever an excise-officer arrests any person,

or seizes any article liable to confiscation under this Act,

or enters any place for the purpose of searching for any such article,

he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, seizure, or search, to his official superior, and, unless acting under the warrant of the Collector, shall take the person arrested, or the article seized, with all convenient despatch, to the Magistrate for trial or adjudication

Procedure after arrest or seizure.

33. Whenever any person is arrested, or any article is seized, under the warrant of a Collector issued under this Act, the officer making such arrest or seizure shall, within twenty-four hours thereafter, take the person arrested, or the article seized, to the Collector, and the Collector, after such enquiry as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article.

Police to aid excise-officers.

34 All police officers are required to aid the excise-officers in the due execution of this Act, upon request made by such officers.

Power to invest police-officers with powers of excise-officers.

34A. The Local Government may, from time to time, invest either by name or in virtue of his office—

(*a*) any police-officer with the powers conferred on excise-officers by Section 27 of this Act ;

(*b*) any police-officer in charge of a station or any police-officer of or above the grade of head-constable or sergeant with the powers conferred on excise-officers by Sections 28 and 29 of this Act.

Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an excise-officer within the meaning of this Act.

NOTES.—(*a*). The above section his been added by Act VI of 1885, Section 3.

(*b*).—*No* 735.- Under the powers conferred upon him by Section 3 of Act VI of 1885 (An Act to amend Act XXII of 1881), the Hon'ble the Lieutenant-Governor is pleased to invest all Police Officers in the Punjab with powers—

(*a*) to stop and detain any person carrying any spirit, fermented liquor or intoxicating drug, liable to confiscation under Act XXII of 1881 ;

(*b*) to seize such spirit, liquor or drug, together with any vessels, packages, or coverings in which it is contained, and any animals and conveyances used in carrying it ; and

(*c*) to arrest the person in whose possession such spirit, liquor or drug is found.

*No.* 735½.—Under the powers conferred upon him by Section 3 of Act VI of 1885 (An Act to amend Act XXII of 1881), the Hon'ble the Lieutenant-Governor is pleased to invest all Police Officers in charge of stations and all Police Officers of or above the rank of Sergeant in the Punjab with powers—

(*a*) to arrest any person having in his possession any article liable to confiscation under Act XXII of 1881, or engaged in the unlawful sale of any spirit,

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fermented liquor or intoxicating drug, and to seize such article, spirit, liquor or drug;

(b) when he has reason to believe from information given by any person (which information shall be taken down in writing) that in any place spirit is unlawfully manufactured, or any article liable to confiscation under the above Act is ke t or concealed—

(1) to enter into such place after sunrise and before sunset;

(2) to break open any door in case of resistance and force and remove any other obstacle to such entry, and to seize and carry away such spirit or article; and

(3) to arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping or concealing of such article.

*(Punjab Government Notifications Nos.* 735, 735½, *dated 26th March* 1885, *Punjab Gazette of same date, Part I. p.* 216).

See also Financial Commissioner's Circulars No. 26 of 1885, and No. 1 of 1884.

## CHAPTER VII.

### PENALTIES.

For illegally manufacturing spirit or liquor.

35. Whoever in contravention of section five constructs, works, or possesses a distillery, still, or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both;

and all spirit and liquor made in contravention of section five, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

36. Any person who—

For illegally introducing country spirit.

(a) without a special pass from the Collector, introduces, into the limits fixed for the consumption of spirit made at a distillery established under section six, any country spirit manufactured at another place, or

For illegally removing spirit.

(b) in contravention of section seven or of any rule made under section eight or section nine, removes any spirit from a distillery, or

For illegally importing spirit.

(c) in contravention of section twenty-three, brings any spirit or fermented liquor into any territory to which this Act extends,

shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both;

and the spirit or fermented liquor, together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.

NOTE.—As amended by Act II of 1887, Section 6.

For contravening rules prescribed by Chief Revenue-authority.

37. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section eight or section nine, shall be punished with fine not exceeding one hundred rupees.

For illegally cultivating hemp and preparing drugs.

38. Any person who, in contravention of section eleven or of any rule made thereunder, culivates hemp or prepares any intoxicating drug, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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For illicit sale of spirit, &c.

39. Any person who, in contravention of section twelve, sells any spirit, fermented liquor, or intoxicating drug, shall be punished with imprisonment for a term which may extend to four months, or with a fine which may extend to one thousand rupees, or with both.

For permitting drunkenness, &c., in shop.

40. Any person licensed to sell retail spirit, or fermented liquor, or intoxicating drugs, who permits drunkenness, riot, or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing apparel or other effects in barter for spirit, fermented liquor, or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees.

For illegal possession of spirit, liquor, or drug.

41. Any person who possesses any spirit, liquor, or drug, in contravention of section twenty-one or section twenty-two, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both;

and the spirit, liquor, or drug, together with any vessels, packages, and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation.

For refusal to produce license and for breach of rules and conditions.

42. Any person holding a license under this Act, and refusing to produce the same on the demand of any excise-officer, and any person who breaks any rule made under this Act, or any condition of a license granted under this Act, for the breach of which rule or condition no other penalty is hereby provided, shall be punished with fine which may extend to fifty rupees.

For conniving at illicit manufacture or sale of spirit, &c.

43. Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs, shall for every such offence be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

And any person invested with local jurisdiction who authorizes or connives at the illegal sale of any spirit, fermented liquor, or intoxicating drug within the local limits of such jurisdiction, shall be punished with fine which may extend to five hundred rupees.

For police neglecting to aid excise-officers.

44. Any police-officer who, without lawful excuse, neglects or refuses to aid an excise-officer as required by section thirty-four, and any officer in charge of a police station who, on application made by an excise-officer desiring to act under section twenty-nine, fails to attend a search himself, or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees.

For vexatious search or seizure.

45. Any excise-officer who—

(*a*) without reasonable grounds of suspicion searches or causes to be searched any place, or

(*b*) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or

(*c*) vexatiously and unnecessarily arrests any person, or

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(*d*) commits any other excess not required for the execution of his duty,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

For delay in reporting arrest, &c., or in taking person arrested to Magistrate.

46. Any excise-officer who, in contravention of section thirty-two or section thirty-three, neglects to report the particulars of an arrest, seizure, or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

Prosecutions restricted.

47. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty-one, forty-two and forty-three, except on the complaint or report of the Collector or an excise-officer; and a Court shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

NOTE.—As enacted by Act VI of 1885, Section 4.

Confinement in what jail.

48. Every person imprisoned for an offence under section thirty-seven or section forty-two shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts and abetment.

49. Whoever attempts to commit any offence punishable under this Act, or abets within the meaning of the Indian Penal Code the commission of any such offence, shall be punished with the punishment provided for such offence.

Dispoal of fines, &c., as rewards.

50. Any Magistrate before whom any person is convicted of any offence under sections thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty-one, or forty-three, may award to any person who has contributed in any way to such conviction, the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Magistrate to pass order of confiscation.

51. Any article liable to confiscation under this Act may, on the application of an excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

## CHAPTER VIII.

### MILITARY CANTONMENTS.

Manufacture and sale of spirits, &c., in military cantonments.

52. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor be let in farm, unless with the knowledge and consent of the commanding officer;

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and upon his requisition any such license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled.

NOTE.—Under the provisions of Section 52 of the Excise Act (XXII of 1881) the Hon'ble the Lieutenant-Governor is pleased to prescribe a distance of three miles from the limits of the Dharmsála Cantonment in the Kángra District as the distance within which no licenses for the manufacture of spirit or for the sale of spirit or fermented liquor shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor or the right to manufacture such spirit or liquor be let in farm, unless with the knowledge and consent of the Commanding Officer of the said Cantonment.—(*No. 520, dated 6th June 1888, Punjab Gazette of 7th idem, Part I, p. 445*).

Mode of making arrest or search in military cantonments.

53. In all other respects the provisions of this Act shall have effect within such limits or distance: Provided that whenever any arrest or search under this Act is to be made within the limits of any cantonment, the Collector or other officer authorized to make such arrest or search shall, whenever it may be practicable, give previous notice to the commanding officer, and in all other cases shall report the arrest or search to such commanding officer, with as little delay as possible.

## CHAPTER IX.

### MISCELLANEOUS.

Collector subject to control of Commissioner.

54. The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of revenue, and all orders passed by a Collector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors.

The Chief Revenue-authority may revise any order passed by a Collector under this Act or by a Commissioner under this section.

Additional power to make rules.

55. The Chief Controlling Revenue-authority may, from time to time, make rules consistent with this Act—

(*a*) as to the period for which any license or farm under this Act shall be granted;

(*b*) as to the fee payable for any such license or farm, and the time or times at which it shall be payable;

(*c*) as to the security to be given by any licensee or farmer under this Act;

(*d*) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer, and the conditions which may be inserted therein;

(*e*) as to the disposal of things confiscated under this Act;

(*f*) as to the duties of excise-officers; and

(*g*) to provide generally for carrying out the provisions of this Act.

Power to exempt articles and persons.

56. The Local Government may from time to time, by notification in the official Gazette, exempt within any specified local area any specified articles or any specified class of persons from all or any of the foregoing provisions of this Act, and may, by like notification, cancel any such exemption.

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NOTES.—The following Rules made under Act X of 1871 are saved by S. 2 of the present Act :—

Spirits and fermented liquors.

(a). The Excise Law of the Punjab in regard to spirits and fermented liquors is contained in Act X of 1871 and Act XV of 1863.

2. Under these Acts the Financial Commissioner, as the Chief Revenue-authority, is empowered to frame rules subject, in certain cases, to sanction of the Local Government.

3. The accompaying rules, which have received the sanction of Government, are herewith circulated, in supersession of all previous orders on the subject.

The following is a list of the rules, with the sections under which they are framed in each case :—

Rules under Act X of 1871, regarding—

I. Distilleries worked after the English method (Section 6).

II.—Distilleries for the manufacture of Native spirits (Section 8).

III.—Licenses for construction and working of breweries (Section 9).

IV.—Form and conditions of licenses (Section 33).

V.—Excise Officers entitled to rewards (Section 79).

Rules under Act XVI of 1863, regarding the levy of excise on spirits used exclusively in arts and manufactures, or in chemistry (Section 2).

To these are added—

Rules for the supervision and control of the Excise Revenue.

Rules regarding intoxicating drugs and opium are issued separately, in Book Circular IX of 1874.*

4. The rules now issued contain the following provisions, which are new, to which attention is specially directed.

Rules 41 to 47 contain provisions differing from the rules hitherto in force in regard to the rates of licenses for the sale of spirits imported or manufactured after the English method.

The low rates hitherto authorized for staging bungalows have been enhanced, and these rates must be introduced on the expiry of existing licenses.

Rule 47.—The number of licenses hereafter granted for the sale of Rum is to be limited, and the licenses are to be put up yearly to auction, as is done in the case of licenses for the retail vend of Native Spirits.

The rules require no further comment.

5. In Punjab Notification No. 585, dated 20th April 1874, Police Officers above the rank of Sergeant have been invested under Section 46, Clause 2 of the Excise Act, with the same powers in respect of the seizure and search for spirituous and fermented liquors of every description as are given them by Clause 1 in regard to opium.

As regards Revenue Officers, Deputy Commissioners have only to appoint Tahsildars Excise Darogahs, under Section 9 of the Act, to give the necessary powers to them and their establishments.

6 The following instructions as to the use of hydrometers are also republished, with slight additions, from previous Circulars :—

*Hydrometers.*

Circular 14 of 1874.

The following hydrometers are at present in use:

I.—Sykes' hydrometers.

This is a valuable and delicate instrument, fitted for testing spirits of various strength by the addition of numbered weights, and accompanied by a book of tables showing the strength of spirits at various temperatures Instruments of this kind are to be kept with care in the Deputy Commissioner's office, and are not to be used, except for the purposes of testing other instruments, or by the officer in charge of the Sadr Distillery at head-quarters.

Hydrometers of this kind may be procured from the Financial Commissioner's Office, and all such instruments which are out of adjustment should be sent to the Financial Commissioner's office.

I.—Stevenson's hydrometer.

This is a plain instrument of brass (sometimes gilt), marked on the narrow side of the scale stem P. 80°

* This Circular so far as it relates to opium is superseded by the rules made under the Opium Act (I of 1878).

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The scale shows the strength of spirits 25° above and 25° below proof when the liquor is at a temperature of 80° of Fahrenheit's thermometer. As the instrument can only be used for testing spirits at a temperature of 80° of Fahrenheit, it is not ordinarily suitable for India, and no more hydrometers of this description will be issued.

III.—Hydrometers of brass made in the Punjab.

These are the instruments in common use at Central Distilleries. They are supplied on requisition to the Financial Commissioner's office. They are adjusted to test spirits at a temperature of 90° Fahrenheit. They have only three marks on them—one at the top for proof, another in the middle for 25° below proof, and a third low down on the stem for 50° below proof. Formerly they were not accompanied with weights, but it has been found that a more accurate adjustment can be secured by using moveable weights. The instrument is also by this means kept at a convenient size.

The accompanying sketch shows the common hydrometer with the three weights. When with the smallest weight (1) placed on the stem just above the lower bulb (*a*), and with the spirit at 90° Fahrenheit, the instrument sinks in spirit until the highest mark on the stem is level with the surface of the spirit, the spirit is of full proof. When, with the middle weight (2) placed on the instrument, and the spirit at 90° Fahrenheit, it sinks until the middle mark is level with the surface of the spirit, the spirit is 25° below proof. When, with the largest weight (3) applied, and the spirit at 90° Fahrenheit, the instrument sinks until the lowest mark is level with the surface of the spirit, the spirit is 50° below proof.

From this it will be seen that instruments with which weights have been supplied are of no use without the weights. Moreover, as the instruments are roughly made, and adjusted by fixing the weights, the weights of one instrument cannot be used for another. If weights are lost, the instrument must be re-adjusted by means of the standard Sykes' Hydrometer in spirit raised to 90° Fahrenheit, and the new weights made so as to correspond.

Care should therefore be taken that the weights are not lost.

There may still be some of the common hydrometers in use, which were adjusted without weights. Deputy Commissioners should ascertain by comparison with the standard hydrometer the correctness of these instruments, and guard against the use of those for which weights are necessary, without the weights being applied.

Hydrometers are liable to be thrown out of adjustment by the action of the acids in the spirit upon the metal of which they are made. In order to retard such deterioration, the Excise Officers should be instructed every time that the hydrometer is used, to wash it thoroughly in pure water, and dry it carefully with cotton-wool.

Hydrometers of this kind may be procured from the Financial Commissioner's Office; When out of adjustment they can ordinarily be adjusted by comparison with the standard Sykes' Hydrometer, or they may be returned to the Financial Commissioner's office for adjustment.*

The spirit to be tested is poured into a copper vessel kept for trials, and brought to a temperature of 90° Fahrenheit. When the temperature of the spirit to be examined is above 90° Fahrenheit, the copper vessel with the spirit contained in it, should be sunk in a porous vessel containing water, until it is brought down to that temperature, when the temperature has to be artificially raised, this may be best done by placing it over a fire in a large pot filled with sand, or in a vessel filled with warm ashes, or hot water; as, if the copper vessel itself is placed on the fire, it will be difficult to obtain a uniform temperature.

The spirit should in every case be thoroughly stirred, so as to ensure that the thermometer indicates the true temperature. The hydrometer is then thoroughly immersed in the spirit, and kept in it sufficiently long to admit of the metal attaining the same temperature as the spirit, after which it is allowed to rise till it is at rest.—*(Financial Commissioner's Book Circular No. VI, dated 20th March* 1874).

## RULES UNDER THE EXCISE ACT (NO. X OF 1871).

### 1. *Distilleries worked after the English method.* (*Rules under Section* 6).

(*a*). Grant of license to construct or work distillery.

1. Application for license, under Section 5 of Act X of 1871, shall be made to the Deputy Commissioner of the district. The Deputy Commissioner shall submit the application, with his report thereon, to the Commissioner of the division, and shall be guided by his instructions in granting or withholding the license.

2. The Commissioner may prohibit the grant of such license without assigning any reason for the same, except to the Financial Commissioner in the event of his order being appealed against.

Bengal Rules, Chapter V, Section vi, 3.

3. The applicant for license to work a distillery in the English method may, if it be thought necessary, be required to deposit as security a sum not exceeding five thousand rupees, the whole of which, or such portion as Government, on the recommendation of the Financial Commissioner, may determine, shall be liable to forfeiture in the event of any breach of the

* See Financial Commissioner's Circular Memo No. 41 of 1888.

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Excise law involving forfeiture of license being proved. On the license expiring otherwise than by forfeiture, the sum so deposited shall be returned by the Deputy Commissioner.

*Ib.*, 4.

4. Such deposit will, further, be at the disposal of the Deputy Commissioner for the discharge of all payments, whether of revenue, license charges, fines or forfeitures, to which the distiller may be liable by law, by these rules, by the condition of his license, or by any engagement or bond into which he may have entered.

5. Any person obtaining a license to work a distillery after the English method, shall engage to take such measures and conform to such rules, for the security of the public revenue, as may be from time to time prescribed by the Financial Commissioner with the sanction of Government.

On such engagement being entered into, a license shall be granted in the form annexed (No. I).

6. No such distillery shall be licensed until the applicant shall have satisfied the Deputy Commissioner of the district, that the distillery buildings and premises are so constructed and surrounded by a wall as to afford full security for the Government revenue.

7. The person licensed to work such distillery shall pay the expense of the establishment employed on the part of Government at such distillery, and shall provide a suitable residence for the members of such establishment, so situated as to command the ingress to and egress from the premises. The number and rate of remuneration of the persons employed on such establishment shall be regulated from time to time by the Financial Commissioner.

(*b*). Notices to be given of commencement and discontinuance of work.

8. The person licensed to work such distillery, shall give notice not less than one full day beforehand, both of the day on which it is intended to begin distilling, and of the day on which it is intended to discontinue working the stills.

(*d*). Passing of the spirits.

9. No spirits shall be removed from such distillery and beyond its premises, unless under a pass issued by the Deputy Commissioner, which shall specify the quantity and strength of the spirit. The strength shall be ascertained by Sykes' hydrometer.

(*Note*).—No rules under Section 6 (*c*) regulating the size and description of the stills are at present proposed.

10. No spirits shall be removed from such distillery upon which the duty prescribed by Act X of 1871, Section 21, has not been paid.

11. Distillers manufacturing Rum in licensed distilleries for the Commissariat and Ordnance Departments, may remove the spirit so manufactured from the distillery on executing a bond for the payment of the duty, which shall be adjusted on the receipts given by the heads of those departments.

12. Distillers working licensed distilleries may sell in quantities not less than 8 Imperial gallons spirits and spirituous liquors manufactured at such distilleries to persons certified by the Deputy Commissioner of the district or Political Agent of any Native State to which the spirits are consigned to be licensed to deal in country-made rum in the Punjab or elsewhere on their obtaining a pass from the Deputy Commissioner of the district or other officer in charge of the excise of the district in which the distillery is situated. The full duty must in all cases be paid before the despatch leaves the distillery premises, and the owner or manager of this distillery must hold a license for wholesale vend.

☞ [NOTE.—See Financial Commissioner's Circular No. 41 of 1888].

13. On payment of the prescribed duty, or, in the case provided for in rule 11, on the execution of the bond for payment of the duty, the Deputy Commissioner or other officer aforesaid shall grant a pass in the annexed form (No. II). This pass will protect the despatch while in transit, but it will not authorize sale of the same to others than the consignees specified therein.

14. The pass may be renewed for any other district, or the destination of the despatch in the district may be altered, if the Deputy Commissioner or other officer aforesaid is satisfied that the spirits or spirituous liquors have not been removed from the cask in which they left the distillery.

15. A duplicate of such original or renewed pass, when granted, shall be forwarded to the Deputy Commissioner or other officer in charge of the Excise of the district for which the despatch is destined, unless in the case of rum consigned to the Commissariat or Ordnance Department.

* 16. The Deputy Commissioner of the district, in which such licensed distillery is worked may, at his discretion, grant special passes to accredited individuals in the annexed form (No. III), for despatches of spirits or spirituous liquors manufactured at such distillery on

* As regards the application of this rule to the importation of Shahjahanpur rum into the Punjab, see Financial Commissioner's Circular No. 1 of 1888.

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certified applications for domestic consumption only, in quantities of not less than two imperial gallons, or one dozen of quart bottles. Provided that the full duty shall have been paid, and that the owner or manager of such distillery shall have taken out a license for wholesale vend.

16 A. In the case of rum manufactured in and issued from the Rum Distillery at Sujanpur, in the district of Gurdaspur, the Tahsildar of Pathankot for the time being is authorized, subject to the control of and in subordination to the Deputy Commissioner of Gurdaspur, to grant the passes referred to in Rules 9, 12, 13 and 16, and to renew or alter passes granted by himself, subject to the conditions of Rule 14.

[NOTE.—Added by Financial Commissioner's Circular No. 40 of 1888].

(e). Inspection and examination.

17. The Deputy Commissioner, Assistant Commissioner, or Extra Assistant Commissioner and any subordinate officer appointed to the duty by the Deputy Commissioner, shall at all times, by day or by night, have free ingress into every licensed distillery, and into the store-rooms and other places appertaining thereto, for the purpose of inspecting and measuring all stills and other vessels used in manufacturing spirits, of gauging spirits manufactured in the distillery, and of estimating, by experiments or otherwise, the amount of the duties.

18. It shall be the duty of the Excise Officer stationed at a licensed distillery, to gauge and prove all spirits manufactured at the distillery, and to keep a regular account of all spirits conveyed from the distillery, or kept in the ware-houses, store-rooms, and other places where such spirits are usually deposited, exhibiting their quantity and strength.

(f). Furnishing of statements of distilling apparatus, &c., and of statements of spirits.

19. The person licensed to work a distillery after the English method shall, before beginning to bring in materials for distillation, furnish to the Deputy Commissioner a correct statement of the distillery premises, specifying every ware-house, store-room, and other place appertaining thereto, to be used in carrying on the business of the distillery, and all stills, coppers, casks, and other vessels to be so used. All such vessels shall be inspected, measured, and marked by the Excise or other officer appointed to the duty by the Deputy Commissioner, and no others shall be used in the distillery.

20. The following registers shall be kept up at such distillery :—

(1).—Register of stills, &c, (Form No. IV).

(2).—Register of spirits in store (Form No. V).

(3).—Register of issues and duty (Form No. VI).

(4).—Register of passes (Form No. VII), and a monthly statement of transactions (Form No. VIII) should be furnished to the Deputy Commissioner of the district.

*II.—Distilleries for the manufacture of country spirits. (Rules under Section 8).*

(a). Management.

21. The system under which the manufacture of spirits after the Native method is now conducted throughout the Punjab, is known as the Central Distillery system.

22. A Central Distillery is an enclosure * surrounded by a wall, with only one entrance, so that no spirits can pass out without the cognizance of the Excise Officer in charge. A certain tract of country is assigned to it, within which no stills may be constructed or worked, or spirits manufactured, except within this enclosure, and into which no country spirits manufactured elsewhere may be introduced without a special pass from the Deputy Commissioner. No such enclosure may be constructed without the previous sanction of the Financial Commissioner at any place not being the head-quarters of a tahsil sub-division.

23. Within this enclosure any person under license from the Deputy Commissioner (Form No. IX) may erect a still at his own expense, and distill as much spirit as he pleases, either removing it himself or allowing others to do so, as he may think fit. Before granting such sanction, the Deputy Commissioner shall take from the applicant a written engagement, binding him under penalties not to use any deleterious substance in preparing his liquor, and not knowingly to transgress the rules laid down for the management of Central Distilleries.

Bengal Rule 11.

24. The Deputy Commissioner may refuse leave to any person to set up a still without assigning any reason, except to the superior Revenue Authorities, in the event of an appeal from his decision.

25. Distillers are permitted to store their materials inside the distillery enclosure, and to construct, at their own expense, suitable accommodation for them.

* For the above purposes it has been found sufficient to enclose a space of from 50 or 100 yards square, with a mud wall from 8 to 10 feet high, coped, if possible, with tiles, or other covering to protect it from rain, and supplied with a strong door. This enclosure should contain two or more sheds for stills, and a well or other means of securing a sufficient supply of water.

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26. Spirits when distilled must be kept in a godown, under double locks, until issued from the Distillery enclosure ; one lock will be the distiller's and the other that of the Excise clerk. The spirit should be tested by the hydrometer as soon as possible after being placed in the godown, a label showing the ascertained strength being affixed to the vessel containing it, in order that the officer in charge may know the strength of the spirits in store. On issue from the Distillery enclosure the spirit will be again tested, as provided in rule 32, and the strength of the spirit may, previous to issue, be altered as provided in rule 35.

27. The Distillery gates must always be kept closed, except for the ingress and egress of Government servants, distillers, and others on business. The gates must always be closed from sunset to sunrise.

28. The Tahsildar has the immediate control of the Central Distillery at his head-quarters. An Excise clerk and a limited number of chaprasis are placed under his orders for the management of the distillery.

*Ib.*, para 39.

29. Spirits are not allowed to be sold by retail at a Central Distillery.

(*b*) *and* (*c*). Conditions of manufacture and issue of passes.

30. No spirit may be removed from a Central Distillery in less quantity than two gallons or without a pass (Form No. X). Such pass shall be granted to licensed vendors only on payment of the prescribed duty. The pass must be signed by the Tahsildar or, in his absence, by the Naib-Tahsildar, and must be shewn at the gate.

*Ib.*, paras 35 and 45.

31. But special passes in the form annexed (Form No. XI) may be granted to native gentlemen for spirits made at the Central Distillery according to their order, who have been in the habit of using spirits prepared in a particular mode, and object to the use of liquor prepared in the ordinary manner. They must make their own arrangements with the proprietor of one of the sanctioned stills for the use of the still or the manufacture of the spirits.

32. The Excise clerk, under the directions of the Tahsildar or Naib-Tahsildar, must measure and prove all spirits issued under the directions of the Tahsildar or Naib-Tahsildar, and shall keep a Register (Form No. XII), with counterfoil of the passes issued, which shall be numbered consecutively. At the end of the month a duplicate shall be prepared for transmission to the District office, with an abstract showing the quantity of spirit of each strength passed during the month for each shop supplied from the distillery. Both register and duplicate shall be signed by the Tahsildar.

Bengal rule 24.

33. Wash prepared for distillation is on no account to be allowed to leave a distillery.

Ib., 25.

34. The still and apparatus of a distiller permanently ceasing to manufacture, must within five days of closure, be removed from the distillery premises unless transferred on application to another licensed distiller. If not removed or transferred within that time, the Deputy Commissioner may give ten day's notice of confiscation to the owner, and may confiscate the still after the expiration of such notice, unless removed in the meantime.

* 35. No spirit shall be issued above proof ; with this exception spirit may be made and passed out of the distillery as strong or as weak as the distiller choses.

The duty is levied at the following rates according to the strength of the spirit, as ascertained by the hydrometer :—

| In the Rawalpindi and Multan Divisions and District of Hazara.— | Elsewhere— | From 25 per cent. below proof to proof, 50 per cent. below proof. and more than 25 more than 50 per cent. below proof. |
|---|---|---|
| Rs. 3-0-0 per imperial gallon. | Rs. 2-8-0 per imperial gallon. | |
| 2-8-0 | 2 0-0 | |
| 2-0-0 | 1-8-0 | |

36. The hydrometers for ordinary use are manufactured in the Punjab, and adjusted to 90° Fahrenheit of the thermometer. A standard hydrometer of English make is supplied to each district by which to test those of Native manufacture.

37. Passes are only current for the day on which they are issued, except when the spirits have to be conveyed more than 10 miles, when they will be current till mid-day of the following day.

*III.—Licenses for construction and working of breweries.* (*Rule under Section* 9).

38. The Deputy Commissioner of any district may, on application, grant a license for the construction and working of a brewery in the annexed form (No. XIII). He may refuse a license without assigning any reason, except to the superior Revenue Authorities in the event of an appeal from his decision.

* See Financial Commssioner's Circular Memo. No. 35 of 1888.

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*IV.—Form and conditions of licenses under the Act.* (*Rules under Section 33*).*

39. License for the wholesale vend of spirituous liquors passed from distilleries in British India, worked according to the European method, of fermented liquors manufactured at a licensed brewery, and of spirituous or fermented liquors imported either by land or sea, shall be granted by the Deputy Commissioner of the district, or in a Cantonment by the Superintendent of A'bkari for the Cantonment, on payment of a fee of Rs. 16 for the official year, or for any portion of the official year during which the license may be in force.

Wholesale vend of spirituous or fermented liquors manufactured after the European method or imported (*vide* Section 13).

40. The license may be for the sale of all the classes of liquor mentioned in the preceding rule or of any one or more of such classes, and shall be in the form annexed (No. XIV). The place of vend mentioned in the license may, with the consent of the Deputy Commissioner, or of the Cantonment Superintendent of A'bkari, be altered to any other place within the jurisdiction of such officer.

41. Licenses for the retail sale of all or any such liquors may be granted by the Deputy Commissioner of the district, or in a Cantonment by the Superintendent of A'bkari, for the official year, or for any portion of it on payment of the following fees :—

Retail sale of such liquors (*vide* Section 14).

First class Rs. 100 *per annum* or Rs. 29 per quarter of a year.

Second class Rs. 48 *per annum* or Rs. 12 per quarter of a year.

42. The fee will be payable at or before the commencement of each quarter, and in no case shall less than the full fee for a quarter be charged. The Deputy Commissioner shall determine the class in which each vendor shall be placed. In cases of doubt, or when the vendor desires it, a reference may be made through the Commissioner to the Financial Commissioner.

43. In localities where the demand for spirits manufactured after the European method, or imported by land or sea, is small, the Deputy Commissioner may, at his discretion, grant a retail license at the reduced rate of Rs. 24 *per annum*, or Rs. 6 per quarter.

44. A retail license for the vend of fermented liquors only may be granted in any localities at the same rate, should the Deputy Commissioner think fit.

45. A license for the retail sale of all or any of the liquors specified in rule 39, may be granted at the same rate to the proprietor of a small hotel or boarding-house, or to the person in charge of a staging bungalow, should the Deputy Commissioner be of opinion that neither the first nor the second class rate is applicable. Such license shall be subject to the condition that sales shall be made only to travellers and occupants of the hotel, boarding-house, or staging bungalow, in addition to the other conditions prescribed for retail licenses.

46. Subject to the same additional condition, a retail license to supply such liquors may be granted to the person in charge of a staging bungalow at a further reduced rate, should the Deputy Commissioner consider the rate of Rs. 24 too high. Such rate shall not be less than Rs. 6 *per annum* at district or sub-divisional head-quarters in Cantonments, or at important halting places ; nor than one rupee *per annum* at little-frequented places.

47. The provisions of rules 41, 42, 43, 44, 45, 46, so far as regards the granting of licenses and the fees to be levied for such licenses, shall not apply to licenses for the retail sale of Rum. A limited number of such licenses shall be put up for auction sale by the Deputy Commissioner at the commencement of each year in the manner provided for in rules 48, *seq.*, for licenses for the retail sale of spirits manufactured according to the Native method.

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* NOTE.—SEVERAL cases have recently come under the notice of the Financial Commissioner in which loss has been caused to Government by the grant of licenses for the retail sale of country spirits, opium, and drugs to persons of no substance, who have afterwards failed in the payment of their monthly instalments and absconded. To obviate loss of this kind it has been the custom in some districts to demand from auction purchasers of these monopolies the payment of two months' fees in advance. This procedure affords sufficient security to the Government revenue and cannot be considered unfair to the license-holder. The Financial Commissioner accordingly directs that every license for the retail sale of country spirits, opium or intoxicating drugs shall be sold subject to the condition that a sum equivalent to a sixth part of the sum payable for the whole year shall be deposited by the auction purchaser in advance by way of security within ten days from the date of sale. Failure to comply with this condition will invalidate the sale of the monopoly. Credit should be given for this deposit in the adjustment of the two last monthly instalments due under the license. (*Financial Commissioner's Circular No.* 18 of 1886).

Licenses for retail sale of spirits, opium, &c., advance fee demandable for.

See also Financial Commissioner's Circular No. 35 of 1888.

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[NOTE.—"The Financial Commissioner wishes to obtain returns of the amount of Rum sold under these licenses; and it is therefore requested that a condition be inserted in the licenses making it obligatory upon the licensed vendor of Rum to give a true return of the amount of Rum sold by him during the year."—(*Financial Commissioner's Book Circular No.* XV of 1874). As regards the procedure in respect of the sale of Rum, see Financial Commissioner's Book Circular No. XIII of 1875]

48. Licenses for retail vend shall be in the annexed form (No. XV).

49. A licensed brewer or distiller is not at liberty to make any sales, either by wholesale or by retail, unless he holds a license for wholesale or retail vend.

50. Licenses to sell either by wholesale or by retail may be refused, either on the ground that the applicant is not a fit person, or that the locality is unsuitable, or that a sufficient number of licenses are already held in the same neighbourhood. No reason for the refusal need be assigned except to the superior Revenue Authorities in case of an appeal.

Retail sale of spirits manufactured after the Native method (*vide* Section 24).

Circular XXXV B of 1863.

See Section 35 of Act.

51. Licenses for the retail sale of spirits manufactured according to the Native method are ordinarily granted separately for each shop at a monthly rate fixed by auction sale, or by accepted tender in the form annexed (No. XVI). As soon as all the leases have been effected, a report is submitted to the Commissioner of the division for approval, shewing the places at which it is proposed to locate retail shops, and the rates fixed (Form No. XVII). If any change becomes necessary during the year, owing to a change in the licensed vendor or the rate, or to a new shop being opened, or a license surrendered, a supplemental statement should be submitted.

52. No shop should be allowed to be established in a conspicuous position adjoining a road, where there are few or no other habitations, or in a village, the inhabitants of which object to its presence.

53. No fresh shop should be established within the year at a locality where it would render any of the shops already licensed for the year less profitable.

54. Licenses for the sale of country liquor at periodical fairs, during the days on which the fair is held, may be sold, either separately from the annual license for the same locality, or as part of such license.

55. In Cantonments and, with the previous sanction of the Financial Commissioner, in any other sub-division of a district, the farm of the licenses for retail of country spirits at all authorized shops may be sold by auction under the same rules as those which are applicable to the farm of the excise on drugs. A counterpart of the license, which shall be in the form already prescribed for licenses for retail sale, shall be kept at each shop.

Bengal rules, 6 (page 71).

56. All license fees for the retail sale of country spirits shall be paid in advance at the commencement of each month to the Tahsildar charged with the supervision of the distillery from which the liquor is drawn, and no liquor shall be passed out to a shop for which the fee of the month has not been paid.

57. In Cantonments the license shall provide, in addition to the conditions elsewhere prescribed, that the liquor must be drunk on the premises.

(*Additional rule under Section* 33).

[If any licensed vendor or farmer shall have in his possession on the expiry of his lease or farm, any Native spirit (or Rum, in the case of Rum licenses) which he is unable to dispose of to the satisfaction of the Deputy Commissioner by private sale to other licensed vendors or farmers, he shall surrender the same to the officer in charge of the Excise Revenue; and the incoming licensed vendor or farmer, or, if the expired license or farm is not renewed, any licensed vendor or farmer within the district, when required by the Deputy Commissioner, shall be bound to purchase the spirits (or Rum) aforesaid to the extent of two months supply at such price and in such quantities as the Deputy Commissioner shall adjudge.—(*Financial Commissioner's Book Circular No. XVII of* 1878).

NOTE. As regard the hours during which shops for the retail vend of country spirits and Rum may be kept open, see Financial Commissioner's Circulars 54 of 1882, and 22 of 1883.

*V.—What Excise Officers entitled to rewards under the Act.* (*Rule under Section* 79).

Book Circular XX of 1864.

What Excise Officers entitled to rewards under the Act.

58. The Excise Darogah of a district and all Customs officers in the Revenue Department below the rank of Naib-Tahsildar, and officers in the Police below the rank of Deputy Inspector, shall, when acting as Excise officers, be entitled to receive rewards under Section 79 of the Excise Act. Tahsildars, Naib-Tahsidars, Deputy Inspectors of Police, and officers of the Revenue or Police Departments in grades superior to these, shall not be entitled to share in such rewards unless otherwise specially ordered by the Financial Commissioner.

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*Rules under Section 2 of Act XVI of 1863 for levying the Excise on spirits used exclusively in art and manufactures, or in chemistry.*

1. Application for license to remove spirits from a licensed distillery to be used exclusively in arts and manufactures, or in chemistry, on payment of an *ad valorem* duty of 10 per cent. under Act XVI of 1863, must be made to the Deputy Commissioner of the district, who must be satisfied that such spirits have been effectually and permanently rendered unfit for human consumption by the admixture of some ingredient, regarding which the Chemical Examiner to Government has certified that it will effectually and permanently render unpalatable, and unfit for human consumption, the spirits with which it is mixed.

2. Any expense which may be incurred by the Deputy Commissioner in rendering spirits unfit for human consumption, or for ascertaining by chemical or other process that they have been effectually and permanently rendered unfit for human consumption, must be paid by the person wishing to clear the spirits before they are allowed to be removed.

3. For the purpose of fixing the amount of duty to be levied on such spirits, the Deputy Commissioner may determine its market value, subject to appeal to the Commissioner.

4. The license, which shall be in the annexed form (No. XVIII), shall specify the premises on which the spirit so removed shall be used, and such premises shall be open to the inspection of Excise Officers at any hour of the day or night. If used at the distillery, the use of the spirit shall be under the same supervision of the excise establishment as the manufacturing operations of the distillery.

5. The Deputy Commissioner may refuse to grant such license without assigning any reason, except to the superior Revenue Authorities in the event of appeal.

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*Rules for the supervision and control of the Excise Revenue from spirits and fermented liquors.*

Book Circulars XI A of 1863 and XIV of 1868.

* See rules under the Excise Act.

1. A monthly report (*tauzi*) of collections on account of licenses for retail sale of spirits and fermented liquors shall be prepared at each tahsil, and forwarded by the Tahsildar to the district officer, along with the abstract of passes issued * during the month. The Excise Darogah or other proper officer shall prepare from these returns a single statement showing the excise collections of each tahsil in the district, and shall lay this statement before the Deputy Commissioner, who will issue thereupon such instructions as may be required for recovery of arrears or otherwise.†

2. These statements need not be submitted to the Commissioner, unless called for by him, or required to elucidate reports on balances recommended for remission or suspension.

3. A quarterly statement of income from excise on spirituous and fermented liquors (No. XIX) is submitted by Deputy Commissioners to the Commissioner of the division, by whom it is forwarded, with such remarks as he considers necessary, to the Financial Commissioner.

4. Compensation on account of the closing of shops for the retail vend of native spirits whilst European troops are in the vicinity shall be adjusted by such payment under order from the Deputy Commissioner. Such order shall be issued on receipt of the Tahsildar's report of the amount of compensation due and the payment shall be charged in the public accounts.

Circular 54 of 1855 and Book Circular XII of 1858.

5. Suspensions and remissions of demand may be made under the sanction of the Commissioner of the division. In the case of suspensions, a date or dates for payment must be fixed.

Book Circulars XIII and XXXIX of 1861.

6. Refunds may be made under the rules applicable to refunds on account of Land Revenue.

7. All suspensions, remissions, and refunds sanctioned by Commissioners, must be reported at the time to the Financial Commissioner.

Book Circular XIV of 1868. Appendix IV, remarks on Circular 54 of 1855.

8. As soon as possible after the close of the year, and in anticipation of his annual Revenue Report, the following statement (No. XX) should be submitted by the Deputy Commissioner to the Commissioner of the division:—

Book Circular VIII of 1867.

Comparative statement of income and charges on account of Excise on spirituous and fermented liquors for the years 18 18 and 18 18

9. This statement will be forwarded by the Commissioner to the Financial Commissioner after examination and addition of such remarks as may be necessary, including his orders for the disposal of balances entered as doubtful

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† See Financial Commissioner's Circular No. 43 of 1887.

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10. Balances, the remission of which has been sanctioned during the year under report will be shown in the statement as nominal or recoverable, as the case may be, a reference to the order sanctioning the remission being added.

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NOTE.—The following forms are as amended by Financial Commissioner's Circular No. 8 of 1884.

FORM No. I.

REGISTER No.

License to work a distillery for the manufacture of spirits according to the English method at in the district of is hereby granted to subject to the conditions prescribed in the rules made by the Financial Commissioner with the sanction of the Punjab Government under Section 8 of the Excise Act, 1881, and to such other rules for the security of the public revenue as may be hereafter made and issued under the same authority.

*District*
*Dated* } *Deputy Commissioner.*

---

FORM No. II.

REGISTER No.

Pass from the licensed distillery of at in the district of the under-mentioned quantity of *viz.* imperial gallons, of the strength of upon which the legal duty has been paid (*or* for the payment of the legal duty upon which a bond has been executed under rule 11), and contained in casks marked as below, consigned to at in the district of

This pass will continue in force for days from this date.

Quantity of despatch.

*District*
*Dated* }

No.—
Imperial gallons
Name.—
Distillery —
O. P.—

*Deputy Commissioner.*

*Distillery Officer.*

---

FORM No. III.

REGISTER No.

Special pass is hereby granted for the despatch of the undermentioned quantity of manufactured at the distillery of in the district of to residing at in the district of the prescribed duty having been paid, and the despatch having been certified for domestic consumption only.

This special pass shall continue in force for days only from this date.

| Description and strength of spirit. | Quantity in imperial gallons. | No. of bottles. |
|---|---|---|

*District*
*Dated* } *Distillery Officer.* *Deputy Commissioner.*

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FORM No. IV.

*Register of stills, casks, &c, used in the* *Distillery.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|---|---|---|---|---|---|---|---|---|---|---|
| | Detail of Stills, &c. | | | | | | | | | |
| | *Stills.* | | *Casks.* | | | *Other vessels.* | | | | |
| Date of measurement. | Number. | Capacity. | Number. | Mark. | Capacity. | Number. | Mark. | For what purpose used. | Capacity, if used for storing spirits. | Remarks. |

FORM No. V.

*Register of spirits in store. Quantities in imperial Gallons.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Spirits. | | | | | Rum and Cordials. | | | | Methylated Spirits. | | | | |
| | *Gallons.* | | | | | *Gallons.* | | | | *Gallons.* | | | | |
| Dates. | Above proof. | Above proof. | London proof. | Below proof. | Below proof. | Proof. | Below proof. | Below proof. | Below proof. | Above proof. | Proof. | Below proof. | Below proof. | Remarks. |
| Balance in store on the 20th November ... | | | | | | | | | | | | | | |
| Received into store ... | | | | | | | | | | | | | | |
| Total ... | | | | | | | | | | | | | | |
| Issued ... ... | | | | | | | | | | | | | | |
| Balance in store ... | | | | | | | | | | | | | | |

Note.—The number of columns under each head indicating strength must be adapted to the probable requirements of the distillery.

FORM No. VI.

*Register of Issues and Duty.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | *Spirits issued.* | | | *Rum and Cordials issued.* | | | *Methylated spirits issued.* | | | | Remarks. |
| Date. | Strength. | Number of gallons. | Duty. | Strength. | Number of gallons. | Duty. | Strength. | Number of gallons. | Duty. | Total of Duty. | Here note non-payment of duty on spirits issued to Government departments to be adjusted separately. |

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FORM No. VII.

*Register of Passes.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | *Passes for Commissariat or Ordnance Departments, Rule 11.* | | | | *Passes for traders and others for quantities not less than 8 gallons Rule 12.* | | | | *Special passes for domestic consumption, not less than 2 gallons, Rule 16.* | | | | |
| Date. | Name of party in whose favor pass is issued. | Quantity, description, and strength of spirit, &c., covered by pass. | Amount of duty due. | Destination. | Name of party in whose favor pass is issued. | Quantity, description, and strength of spirit, &c., covered by pass. | Amount of duty paid. | Destination. | Name of party in whose favor pass is issued. | Quantity, description, and strength of spirit, &c., covered by pass. | Amount of duty paid. | Destination. | REMARKS. |

FORM No. VIII.

*Monthly Statement of Spirits, Duty, &c.*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|
| Description. | Strength. | In store at end of previous month in gallons. | Distilled and brought into store during the month. | Issued during the month. | Balance remaining in store. | Amount of duty paid | REMARKS. |
| Spirits ... | Above proof.<br>Do.<br>London proof<br>Below proof<br>Do. | | | | | | |
| Rum, and Cordials ... | Proof.<br>Below proof.<br>Do.<br>Do. | | | | | | |
| Methylated spirits ... | Above proof.<br>Proof.<br>Below proof.<br>Do. | | | | | | |

*N. B.*—A yearly return in the same form to be submitted with the Revenue Report.

FORM No. IX.

REGISTER No.

License is hereby granted to resident of to work still in the Central Distillery at for the manufacture of spirits from the date of this license to the 31st March 18 , subject to the following conditions :—

I. That he work no more than still under this license, and that he conform in all respects to the rules laid down from time to time by the Financial Commissioner for the regulation of Central Distilleries.

II. That he pay to Government, for the use of the premises, the monthly rent of to be paid on demand at the end of each month.*

III. That he sell only to parties who are duly licensed to sell by wholesale or retail.

* See Financial Commissioner's Circular Memo. No. 6896 of 1885.

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IV. That upon any breach of these conditions this license shall be forfeited, and, in the event of such forfeiture, his stock of unsold spirit, with the still and apparatus, may be sold by the Deputy Commissioner in satisfaction of the claims of Government.

FORM No. X.

REGISTER No.

Locality of Distillery

Allow licensed to retail spirits at to remove from the distillery gallons, upon which the prescribed duty has been paid.

*Kanungo.* *Tahsildar.*

FORM No. XI.

SPECIAL PASS.

Special permission is hereby granted to of to obtain from the distillery of parganah the undernoted quantity of liquor for private consumption only, duty having been paid thereon

quantity quality

Amount of duty paid

Date and hour of issue

This pass remains in force only till the hour of

Signature of Tahsildar

Dated

SPECIAL PASS.

Special permission is hereby granted to of to obtain from the distillery of parganah the undernoted quantity of liquor for private consumption only, duty having been paid thereon

quantity quality

Amount of duty paid

Date and hour of issue

This pass remains in force only till the hour of

Signature of Tahsildar

Dated

FORM No. XII.

*Form of Register of Passes issued from the Tahsil of Zillah*

*during the month of* 18 .

| Date. | No. of pass. | Name and locality of retail vendor. | *Quantity of spirits passed.* | | | | | Total of duty paid. |
|---|---|---|---|---|---|---|---|---|
| | | | Paying Rs. 1-8-0 duty. | Paying Rs. 2-0-0 duty. | Paying Rs. 2-8-0 duty. | Paying Rs. 3-0-0 duty. | Total. | |

*Abstract of above.*

| Name and locality of vendor. | *Total quantity of liquor passed.* | | | | | Total of duty paid. |
|---|---|---|---|---|---|---|
| | Paying Rs. 1-8-0 | Paying Rs. 2-0-0 | Paying Rs. 2-8-0 | Paying Rs. 3-0-0 | Total. | |

FORM No. XIII.

License to work a brewery is hereby granted to at in the district of on the following conditions, infraction of any of which will involve forfeiture of license :—

1*st.* Only malt liquor of any description shall be manufactured within such brewery or the premises thereof.

2*nd.* No attempt shall be made to extract spirits from the grains or refuse of the brewery.

3*rd.* No wholesale vend of malt liquor shall be made at the brewery without a wholesale license or retail vend without a retail license.

4*th.* No malt liquor shall be sold or given from the brewery to European soldiers or Non-Commissioned Officers, whether with their Regiments or on Staff or Civil employ, without written permission of the Officer Commanding or other official superior.

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*5th.* The brewery shall be open at all times to the inspection of the Deputy Commissioner, Assistant Commissioner, or Extra Assistant Commissioner of the district, or of any subordinate whom the Deputy Commissioner may authorize for the purpose.

*District*
*Dated* *Deputy Commissioner.*

NOTE.—Where a distillery license is also held, conditions 1 and 2 must be omitted or modified, so as to consist with such license.

---

FORM No. XIV.

*License for the wholesale vend of imported spirituous and fermented liquors.*

Register number

Name of vendor

Locality

License for the wholesale vend of spirituous and fermented liquors, manufactured according to the English method, or imported into British India, is hereby granted to at in the district of on the following conditions, the infraction of any of which shall involve forfeiture of license and penalties under Section 42, Act XXII of 1881.

*1st.* That an annual fee of sixteen rupees shall be paid to Government in advance.

*2nd.* That sale of the above-mentioned descriptions of liquors only shall be made, and that sale or admixture therewith of spirits manufactured after the native method, shall on no pretext be made or attempted.

*3rd.* That sale of the liquors of the description authorized shall not be of less quantity than two imperial gallons or twelve quart bottles, and this quantity shall not be made up partly of spirituous and partly of fermented liquors, but wholly of one or the other.

*4th.* That sale of liquors of any kind or in any quantity within the limits of any Military Cantonment shall not be made unless with the sanction of the Commanding Officer.

*5th.* That at the shop or place of vend a signboard shall be put up inscribed with the name of the license-holder and the designation "licensed wholesale vendor of European and imported liquors."

*6th.*—That the holder of this license shall furnish to the Deputy Commissioner such returns of the quantities of liquors sold by him under this license as the Deputy Commissioner under orders of the Chief Controlling Revenue Authority may, from time to time, demand.

*7th.*—That no spirituous or fermented liquors shall be sold to any European soldier or non-commissioned officer whether with his regiment or in civil or staff employ, or to any camp-follower without the express permission of the Officer Commanding the Regiment or detachment, or his other official superior, or of the Cantonment Magistrate in localities where Act III of 1880 is in force.

This license is granted for the district of _____ and shall be in force from the date hereof to _____ 188____ and no longer.

DISTRICT _____
*Dated* _____ _____ _____
*Deputy Commissioner.*

---

FORM No. XV.

*License for the retail vend of imported spirituous, and fermented liquors.*

Register number

Name of vendor

Locality

License for the retail vend of spirituous and fermented liquors, manufactured according to the English method, or imported into British India, excepting Rum, is hereby granted to at , in the district of on the following conditions, the infraction of any of which shall involve forfeiture of license and penalties under Sections 40 and 42, Act XXII of 1881:—

*1st.*—That a quarterly fee of Rs. _____ _____ shall be paid to Government in advance for every quarter of the term of which this license is granted.

*2nd.*—That retail sale of the above mentioned descriptions of liquors only shall be made, and that sale or admixture therewith of spirits manufactured after the Native method shall on no pretext be made or attempted.

*3rd.*—That spirituous and fermented liquors of the above authorized description shall be procured from licensed wholesale dealers only.

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*4th.*—That sales shall be made of liquors only in the shop for which this license is granted, and not elsewhere under any pretext.

*5th.*—That no greater quantity of liquor than two imperial gallons or twelve quart bottles, shall be sold to any one person at one time.

*6th.*—That the shop for which this license is granted shall not be open, nor sale of liquor be made therein before sun-rise or after 8 p.m. in the winter, and 10 p. m. in the summer months.

*7th.*—That no wearing apparel or goods of any kind shall be taken in barter for liquor.

*8th.*—That no bad characters shall be allowed to resort to the shop, or gambling or disorderly conduct of any description shall be permitted therein, and that information of suspected persons shall be given to the Magistrate or Police Officer.

*9th.*—That at the entrance of the shop a sign-board shall be put up inscribed with the name of the license-holder, and the designation ". Licensed retail vendor of imported liquors."

*10th.*—That the licensed vendor shall produce his license and his accounts for inspection on the requisition of the Excise Officer duly authorized to demand their production, and shall give entry to the shop to any Excise Officer at any hour of the day or night.

*11th.*—That in the event of the holder of this license also holding a wholesale license for vend of spirituous and fermented liquors, the accounts of sales under each license shall be kept separate.

*12th.*—That the holder of this license shall furnish to the Deputy Commissioner such returns of the quantities of liquors sold by him under this license, as the Deputy Commissioner under orders of the Chief Controlling Revenue Authority may from time to time demand.

*13th.*—That no spirituous or fermented liquors shall be sold to any European soldier or non-commissioned officer, whether with his Regiment or on Staff or Civil employ, or to any camp-follower, without the express permission of the Officer Commanding the Regiment or detachment, or of his other official superior, or of the Cantonment Magistrate in localities where Act III of 1880 is in force.

*14th.*—That spirituous or fermented liquors shall not be sold to any native if there is reason to believe that he intends to convey the same to European soldiers or non-commissioned officers or their wives, or European or Eurasian camp-followers.

This license is granted for the district of _____ and shall be in force from the date hereof to _____ 188—

DISTRICT _____
*Dated* _____

_____
*Deputy Commissioner.*

FORM No. XVA.

License for the retail vend of imported spirituous and fermented liquors in Hotels and Dâk Bungalows.

Register No. _____

Name of vendor _____

Locality _____

License for retail vend of spirituous and fermented liquor, manufactured according to the English method, or imported into British India, excepting Rum, is hereby granted to _____ at _____ in the district of _____ on the following conditions, the infraction of any of which shall involve forfeiture of license and penalties under Sections 40 and 42, Act XXII of 1881.

*1st.*—That a quarterly fee of Rs. _____ shall be paid to Government in advance for every quarter of the term for which this license is granted.

*2nd.*—That retail sale of the above mentioned descriptions of liquors only should be made, and that sale or admixture therewith of spirits manufactured after the native method shall on no pretext be made or attempted.

*3rd.*—That spirituous and fermented liquors of the above mentioned authorized descriptions shall be procured from licensed dealers only.

*4th.*—That sales shall be made of liquors only in the { Hotel / Dâk Bungalow } for which this license is granted and not elsewhere under any pretext.

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*5th.*—That all liquor sold under this license shall be drunk on the premises, and that no liquor shall be sold to others than persons staying in the { Hotel. / Dâk Bungalow.

*6th.*—That no wearing apparel or goods of any kind shall be taken in barter for liquor.

*7th.*—That drunkenness, disorderly conduct, riot, or gaming shall not be permitted on the premises, and that persons of notoriously bad character shall not be allowed to remain therein.

*8th.*—That the licensed vendor shall produce his license and his accounts for inspection, on the requisition of the Excise Officers duly authorized to demand their production, and shall give entry to the premises to any Excise Officer duly authorized at any hour of the day or night.

*9th.*—That the holder of this license shall furnish to the Deputy Commissioner such returns of the quantities of liquors sold by him under this license as the Deputy Commissioner under orders of the Chief Controlling Revenue Authority may from time to time demand.

*10th*—That no spirituous or fermented liquors shall be sold to any European soldier or non-commissioned officer whether with his Regiment or in Staff or Civil employ, or to any camp-follower, without the express permission of the Officer Commanding the Regiment or detachment, or of his other official superior, or of the Cantonment Magistrate, in localities where Act III of 1880 is in force.

*11th.*—That spirituous or fermented liquors shall not be sold to any Native if there is reason to believe that he intends to convey the same to European soldiers or non-commissioned officers, or their wives, or European or Eurasian camp followers.

This license is granted for the district of _____ and shall be in force from the date hereof to _____ _____ _____ 188 _____

DISTRICT _____ }
*Dated* _____ }

_____
*Deputy Commissioner.*

FORM No. XVI.

*License for the retail vend of Native spirits.*

Register Number—

Name of vendor—

Locality—

License for the retail vend of spirits manufactured according to the native process is hereby granted to at in the district of on the following conditions, the infraction of any of which shall involve forfeiture of license and penalties under Sections 40 and 42, Act XXII of 1881 :—

*1st.*—That the following monthly license fee shall be paid in advance to the Government through the Tahsildar of _____ for the shop at _____ Rupees _____

*2nd.* That no spirits shall be sold at the shop, except the produce of the distillery at ,either obtained direct from the distillery or purchased from a licensed wholesale vendor located within the limits of the said distillery.

*3rd.* That sales of spirits shall be made only in the shop for which this license is granted, and not elsewhere upon any pretext whatever.

*4th.* That not more than one seer of spirits shall be sold to any one person at one time.

*5th.* That the shop shall not be open or spirit sold therein before sunrise and after 8 P. M. in the winter and 10 P. M. in the summer months.

*6th.* That no wearing apparel or goods of any kind shall be taken in barter for liquor.

*7th.* That no bad characters shall be allowed to resort to the shop, or gaming or disorderly conduct shall be permitted therein, and that information of suspected persons shall be given to the Magistrate or Police Officer.

*8th.* That a signboard shall be put up at the shop, inscribed with the name of the vendor and the designation "licensed retail vendor of country spirits."

*9th.* That the licensed vendor shall keep accounts of sales of liquors made under this license, and shall produce his license and his accounts for inspection, on the requisition of the Excise Officer duly authorized to require such production, and shall give entry to the shop to any Excise Officer at any hour of the day or night.

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10*th*. That the holder of this license shall furnish to the Deputy Commissioner such returns of the quantities of liquors sold by him under this license as the Deputy Commissioner under orders of the Chief Controlling Revenue Authority may from time to time demand.

11*th*. Spirituous or fermented liquors shall not be sold to any European soldier or non-commissioned officer, whether with his Regiment or on Staff or Civil employ, or to any camp-follower without the express permission of the Officer Commanding the Regiment or detachment or of his other official superior, or of the Cantonment Magistrate in localities where Act III of 1880 is in force.

12*th*. That spirituous or fermented liquors shall not be sold to any native if there is reason to believe that he intends to convey the same to European soldiers or non-commissioned officers or their wives, or European or Eurasian camp-followers.

This license is granted for the district of and shall be in force from the date hereof to 188 .

*District*
*Dated* } *Deputy Commissioner.*

---

FORM No. XVII.

*Statement showing the names of places at which it is proposed to establish licensed shops for the retail vend of spirits in the district for the year* 18 .

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| District. | Name of nearest distillery. | Names of places at which licensed shops are to be established | Name of vendor. | Period for which the lease is given. | Distance from the nearest distillery. | Distance from the nearest retail spirit shop. | *Daily rate fixed.* | | *Monthly rate fixed.* | | Remarks. |
| | | | | | | | 18 . | 18 . | 18 . | 18 . | |

*N B.*—These columns are comparative for two years.

---

FORM No. XVIII.

Register No.

License is hereby granted to to use exclusively for the purposes of arts and manufactures, or of chemistry at (describe the premises), spirits removed from the licensed distillery of after having been rendered unfit for human consumption under the rules prescribed by the Financial Commissioner of the Punjab, and after payment of duty at 5 per cent. *ad valorem*.

Provided that the said premises shall be open to inspection by Excise Officers to the same extent as the shop of a retail vendor is so open by the Excise Act, 1881, and that any violation of Act XVI of 1863, of the rules prescribed by the Financial Commissioner, or of the Excise Act, 1881, will entail forfeiture of this license in addition to other penalties prescribed by law.

This license will remain in force only till the 31st of March 18—

*District*
*Dated* } *Deputy Commissioner.*

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EXCISE.

FORM No. XIX.

*Quarterly Statement of A'bkari Income in the* *District for the quarter ending* 18 .

| 1 | 2 | 3 | | | | 4 | | 5 | | 6 | | 7 | | 8 | 9 | 10 | 11 | 12 | 13 | 14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| District. | From license fees for the vend of Native liquor. | *From license fees for the sale of European spirituous and fermented liquors imported or manufactured in India after the European Method. | | | | From still-head duties on country spirits. | | | | | | | | Fines, fees, and forfeitures. | Other items. | Total gross receipts. | Gross receipts of previous quarters of the year. | Total net receipts of the year up to the close of the quarter under report. | Net receipts of the previous year up to the close of the same quarter. | Remarks. |
| | | | | | | *Spirits, London proof.* | | *25 per cent. below proof.* | | *50 per cent. below proof.* | | *Total.* | | | | | | | | |
| | | No. of gallons of Rum sold. | Amount of duty realized from licenses for the sale of Rum. | Amount of duty realized from licenses for the sale of other European liquors. | Total amount of duty. | No. of gallons. | Amount of duty. | No. of gallons. | Amount of duty. | No. of gallons. | Amount of duty. | No. of gallons. | Amount of duty. | | | | | | | |

* See Financial Commissioner's Book Circular No. 15 of 1874.

Deputy Commissioner's Office,
*The* 18 .

*Deputy Commissioner.*

FORM No. XX.

*Comparative Statement of Income and Charges on account of Excise on spirituous and fermented liquors for the year* 18 18 , *and* 18 18 .

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Division. | District. | Year. | Particulars affecting the administration of the sale of spirituous liquors. | | | | | | | Remarks. | Receipts. | | | |
| | | | Number of Sadr Distilleries in existence at the close of the year | *No. of shops for the vend of Native liquors at the close of the year.* | | *No. of shops for the sale of English spirituous and fermented liquors at the close of the year.* | | Number of persons prosecuted for breach of the rules for the sale of spirituous liquors | Number of persons convicted and punished. | | From license fees for the vend of Native liquor. | From license fees for the sale of European spirituous and fermented liquors imported or manufactured in India after the English method. | *From still-head duties.* | |
| | | | | Wholesale. | Retail. | Wholesale. | Retail. | | | | | | Spirits London proof. | 25 per cent below proof. |

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FORM NO. XX.—concluded.

| 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| RECEIPTS.—*concluded.* | | | | | REMARKS. | CHARGES. | | | | | | |
| *On country spirits.* | | Fines, fees, and forfeitures. | Other items. | Total gross receipts. | | Salary of Superintendent, Cantonment A'bkari. | Fixed establishment, District and Cantonment. | Compensation for closing of shops during passage of troops. | Rewards paid to informers. | Contingencies. | Total Charges. | Net Receipts. |
| 50 per cent below proof | Total. | | | | | | | | | | | |

I certify, after personal inspection of the accounts, that the sum of Rs. has been credited under the head of "Excise" in the accounts submitted to the Accountant-General. The sum entered in column 20 differs from the amount so credited only on account of the omission of fractions.

*Deputy Commissioner.*

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NOTE (*to columns* 1—11).—If any distilleries pass out liquor worked according to the English method, this should be stated in the column of remarks.

NOTES (*to columns* 12—21).—1. Ordinarily there should be no balances in this income.
2. Licenses must be paid for before granted.
3. Still-head duty must be paid before the liquor is removed from the Distillery.
4. For loss resulting from closing shops, compensation shall be paid in cash from current collections.
5. Where European distilleries exist, an additional column must be added after 17 for still-head duty on spirits manufactured after the European method.

NOTES (*to columns* 22—28).—The income from distilleries and drugs should be credited in the Treasury accounts under two heads only :—
1st. All income derived from Sadr Distilleries, column 20 of this return.
2nd. All income derived from intoxicating drugs, column 18 of drug statement.
If the entries of this return do not correspond with the treasury account, explanation of the discrepancy must be given.

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NOTE.—The above Forms are as amended by Financial Commissioner's Circular No. 8 of 1884.

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EXCISE.

Form of license for vend of liquors in Railway Refreshment Rooms.

(*aa*). In continuation of the orders contained in Appendix XI of the Directions for Collectors (Barkley's edition), and in partial modification thereof, the Financial Commissioner is pleased to prescribe for general adoption the annexed form of license for retailvend of European liquors at Railway Refreshment rooms.

*License for the retail vend of imported spirituous and fermented liquors in a Railway Refreshment Room.*

Registered number _____

Name of vendor _____

Locality _____

License for retail vend of spirituous and fermented liquors manufactured according to the English method or imported into British India, excepting Rum, is hereby granted to at in the district of on these conditions, the infraction of any of which shall involve forfeiture of license and penalties under Sections 57, 58 and 59, Act X of 1871 :—

1*st*. That retail sale of the above-mentioned descriptions of liquors only shall be made, and that sale or admixture therewith of spirits manufactured after the Native method shall on no pretext be made or attempted.

2*nd*. That spirituous and fermented liquors of the above authorized descriptions shall be procured from licensed wholesale dealers.

3*rd*. That sales shall be made of liquors only in the shop for which this license is granted, and not elsewhere under any pretext.

4*th*. That no greater quantity of liquor than two imperial gallons or twelve quart bottles shall be sold to any one person at one time.

5*th*. That wearing apparel or goods of any kind shall not be taken in barter for liquor.

6*th*. That the licensed vendor do not wilfully adulterate or deteriorate any spirituous or fermented liquors sold by him, or sell the same knowing them to have been adulterated.

7*th*. That between 8 P. M and sunrise the licensed vendor shall, except with the express permission of the Station Master, given at the time, sell spirituous or fermented liquors only for consumption on the premises, and to the following persons, *viz* :—

(1) to persons employed on Railway service, and under rules to be issued from time to time by the Railway Administration, and

(2) to *bonâ fide* Railway travellers, that is to persons who have arrived by the train which last arrived at the station, or who have come to the station with the intention of leaving as passengers by the next train in a specified direction.

8*th*. That no bad character shall be allowed to resort to the shop, or gambling or disorderly conduct of any description shall be permitted there, and that information of suspected persons shall be given to the Magistrate or Police Officer.

9*th*. That a sign board shall be fixed at the entrance of the shop with the name of the license holder and the designation "retail vendor" under Section 14, Act X of 1871.

10*th*. That the licensed vendor shall produce his license and his accounts for inspection on the requisition of the Excise Officer duly authorized to demand their production, and shall give entry to the shop to any Excise Officer at any hour, day or night.

11*th*. That in the event of the holder of this license also holding a wholesale license for vend of spirituous and fermented liquors, the accounts of sales under each license shall be kept separate.

12*th*. That a quarterly fee of Rupees ———shall be paid to Government in advance for every quarter of the term for which the license is granted.

This license shall have effect from the date hereof to the ——— 188 .

13*th*. That he will faithfully comply with the rules below noted for the regulation of the supply of liquors to troops and camp-followers : that is to say,—

(*a*). When troops are travelling under command of an Officer, his sanction must be obtained before they can be supplied with liquor from Railway Refreshment Rooms.

(*b*). Soldiers and their families travelling alone, or in small parties not under the command of an Officer, will, on application at 2nd Class Refreshment Rooms. and provided he men are in uniform and sober, be supplied on payment with refreshments ; only one pint of beer for each man or woman will be obtainable at a station.

(*c*). Except as above provided, spirituous or fermented liquors shall not be sold to any European soldier or non commissioned officer, whether with his Regiment or on Staff or Civil employ or to any camp-follower, without the express permission of the Officer

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Commanding the Regiment or detachment, or of his other official superior, or of the Cantonment Magistrate in localities where Act XXII of 1864 is in force.

(*d*). Spirituous or fermented liquors shall not be sold to any Native if there is reason to believe that he intends to convey the same to European soldiers or Non-Commissioned Officers or their wives, or European or Eurasian camp-followers.

*District* _____ }
*Dated* _____ 188 . }

*Deputy Commissioner.*

(*Financial Commissioner's Circular No.* 8 *of* 1883).

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Intoxicating Drugs and Opium.

(*b*). In Book Circular No. VI of 1874 the Excise law of the Punjab in regard to spirits and fermented liquor was published in a consolidated form.

2. This Circular deals with intoxicating drugs and Opium,* and with the Circular above mentioned, completes the subject of Excise. A list of the previous orders on the subject, which are consolidated or superseded, is appended to this and the above-quoted Circular.

3. The rules herewith published have received the sanction of Government. They comprise :—

A. *Rules under Act X of* 1871, regarding :—

I. The form of the duties leviable on the retail sale of intoxicating drugs, not including Opium (Section 26).

II. The transport of Ganjah, Bhang and Charas (Section 40).

III. The import of Charas into the Punjab from the territories of His Highness the Amir of Kashgar and Yarkand by any route over the Himalayan passes which lie to the south of His Highness' dominions (Section 40).

IV. The sale of Charas at the Palampur Fair and its transport therefrom (Section 40).

V. Special rules for the transport and possession of Charas in the Kangra district (Section 40).

VI. Excise Officers entitled to rewards (Section 79).

* * * * * * * *

(*Financial Commissioner's Book Circular No. IX of* 1874).

## RULES UNDER THE EXCISE ACT.

### (No. X of 1871).

*I.—Form of duties.* (*Rules under Section* 26).

(*a*). Invitation and acceptance of tenders.

1. The Excise income from intoxicating drugs in the Punjab is derived from the farm of the monopoly of sale within tahsils, or other sub-divisions of districts. In some districts the monopoly of Opium and other drugs prepared from the poppy is farmed separately from that of other intoxicating drugs, while in others the same farm includes both.

2. The farm will always be for the financial year unless the previous sanction of the Financial Commissioner to a farm for a longer period has been obtained. It will be put up to auction at the District Office during the last month of the financial year preceding the commencement of the lease; a notice of the date being previously given at each tahsil in the district, and at the head-quarters of neighbouring districts from which bidders are likely to come.

3. The result of the auction sale will be reported to the Commissioner of the division with the recommendation of the Deputy Commissioner. The Commissioner may either sanction the lease to the highest bidder, or, if he be not considered a suitable person, to the highest bidder against whom no objection exists, or may order a re-sale.

4. If a lease be cancelled from any cause before the expiration of its term, the farm of the monopoly for the unexpired portion of the financial year shall be put up to auction.

(*b*). Requisition of security.

5. Before possession is given, a sum equivalent to one-sixth part of the sum payable for the whole year shall be deposited by way of security. If the farmer fail to carry out the conditions of the lease, this sum shall be forfeited to Government; otherwise credit will be given for it in the adjustment of the last two monthly instalments under the lease.

(*c*). Form and conditions of lease.

6. The lease shall be in the annexed form (Appendix I) and subject to the conditions therein specified.

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* The parts of this Circular relating to opium have been omitted, as they are superseded by the Rules under the Opium Act I of 1878.

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*II. Transport of Ganjah, Bhang, and Charas. (Rules under Section 40).*

Transport of Charas.

*7. Merchants bringing Charas into the Punjab must obtain a pass (Appendix III) from the Deputy Commissioner of the frontier station where they enter the Punjab, and take it for countersignature to the Deputy Commissioner or Collector of every district in the Punjab or the North-Western Provinces, which they may subsequently enter with the Charas. The article, its quantity (both gross weight of the package and net weight of the Charas being given), and destination, are stated in the pass, and the package is sealed up with the official seal of the Deputy Commissioner. It may be opened at any head-quarters station or tahsil while on the way to its destination, and a portion of its contents may be sold to the farmer of Excise on drugs, the fact being recorded on the pass, and the package re-sealed. The owners must be warned that if the package is found open, and any Charas is sold from it, except as above stated, they will be proceeded against under the Excise Laws, and the package will be liable to confiscation.

8. If on arrival at the head-quarters of any district the persons in charge of the drugs wish to alter its destination, or to convey part to one place and part to another, the pass may be cancelled, and a fresh pass or passes granted. On arrival at the place of destination, the pass will be retained by the Deputy Commissioner or Collector, or by the Tahsildar, and the consignment will be examined, to see that it corresponds with the pass.

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Instructions for guidance of District Officers granting import or transport passes for Charas.

* NOTES.—(*a*).—Under rule 7 of Book Circular IX of 1874, "Merchants bringing Charas into the Punjab must obtain a pass from the Deputy Commissioner of the frontier station where they enter the Punjab, and take it for countersignature to the Deputy Commissioner or Collector of every district in the Punjab or North-West Provinces which they may subsequently enter with the Charas." The Financial Commissioner has reason to believe that the latter part of this rule, which was intended to serve as a check upon illicit sales, is frequently evaded, and ignorance of its existence was recently pleaded by some dealers in Charas who were charged with illicit sales in the Delhi district.

2. It would appear from a case, which has recently come to light, that certain dealers have lately obtained passes for fictitious places of destination in other provinces and for various quantities of Charas without detail of packages. Armed with a supply of such passes they have attempted to carry on an illicit retail sale in districts between the place of destination and of issue. When called upon to produce their pass for comparison with the Charas in their possession, they trust to being able to produce one or more of their stock of passes which will cover the amount of Charas found on them.

3. In order to check, as far as possible, such practices, all Deputy Commissioners granting import or transport passes for Charas are requested—

(*a*) To send a copy of such pass to the Deputy Commissioner or Collector of the district of destination,

(*b*) To enter on the pass itself a note to the effect that (except when a consignment passes through a district by rail without leaving the Railway premises) the pass must be taken for countersignature to the Deputy Commissioner or Collector of every district through which the Charas may be taken.

(*c*) In passes for Charas and Bhang the weight of the package, or if there are more than one, of each package, should be carefully entered. If this is not done, a pass can be produced to cover Charas for which it was not originally granted, and illicit sales are thereby facilitated.

(*d*) The packages should be sealed across the seams, and especially at the joinings of the seams, with the Deputy Commissioner's seal and shown to that Officer, or to the Assistant or Extra Assistant Commissioner in charge of excise, before being made over to the importer.— (*Financial Commissioner's Circular No. 5 of 1882*).

Import of *Charas* into Bengal.

(*b*). The attention of all Excise Officers is drawn to the subjoined copy of a letter *from* the Government of India, No. 3347, dated the 25th October 1880, regulating the import of *Charas* into Bengal. It will be noticed that in the concluding section of the letter it is laid down that *Charas* shall only be imported for sale into Bengal with the permission of the Collector of the district in which it is to be sold, and after prepayment of half the duty. No passes for the export of *charas* to Bengal should therefore be granted without the production by the applicant of a permit from the Collector of the district to which the pass is to be given, stating that the applicant has paid half the duty chargeable on the consignment.

COPY *of a* LETTER *No.* 3347 *of the 25th October* 1880, *from the Secretary to the Government of India, Department of Finance and Commerce, to the Secretary to the Government of Bengal.*

IN reply to your letter No. 65, dated 30th September 1880, I am directed to state that the Governor-General in Council sanctions the proposal to levy a duty on *Charas* at a rate not exceeding Rs 8 a seer in such districts as the Board may think fit, and to allow *Charas* to be imported for sale only under a pass granted by the Collector of the district in which it is to be sold, on prepayment of half the duty.

(*Financial Commissioner's Circular No. 32 of 1885*).

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9. The quantity actually in transit should be compared with the pass on each occasion on which it is presented for countersignature.

10. The special rules for the Kangra district will be found further on (see rules 14—45).

Transport of Ganjah or Bhang.

†11. Merchants bringing Ganjah or Bhang, or other preparations of hemp, except Charas, from beyond the frontier, must obtain a pass from the Deputy Commissioner of the frontier district where they enter the Punjab, stating the quantity and the place of destination in the Punjab (Appendix IV). A similar pass must be obtained by manufacturers purchasing the hemp plant from cultivators, in order to prepare Ganjah or Bhang, or other preparations of hemp, except Charas. Such pass will authorize sale to any farmer of the Excise of intoxicating drugs, either at the place of destination stated therein, or at any head-quarters station or tahsil; but when the sale is effected at such intermediate place, it must be noted on the back of the pass, and attested by the Deputy Commissioner or Tahsildar.

12. When a considerable quantity of Bhang is imported by boat from native territory, the Deputy Commissioner may depute an Excise Darogah or a Revenue Officer not below the rank of Naib-Tahsildar to examine and certify the amount of the cargo, and may on such certificate, grant his pass to any district under the Punjab Government.

13. A farmer of the Excise on intoxicating drugs, who wishes to purchase Charas, Bhang, or Ganjah, or other preparations of hemp, beyond the limits of his farm, must obtain a pass in the same form from the Deputy Commissioner of his district, stating the quantity he is authorized to purchase. This must be countersigned, except in the case of Charas, by the Deputy Commissioner of the district in which the purchase is made, or if it is made in a Native State, by the Deputy Commissioner of the nearest district. In the case of Charas, he must obtain a pass from such Deputy Commissioner under rule 7, and all the provisions of rules 7, 8, and 9 shall apply.

*III.—Special rules for Merchants importing Charas into the Punjab from the territories of His Highness the Amir of Kashgar and Yarkand by any route over the Himalayan passes which lie to the south of His Highness' dominions* (*Section* 40).

14. Merchants bringing Charas into the Punjab from the territories of His Highness the Amir of Kashgar and Yarkand over the Himalayan passes which lie to the South of His Highness' dominions must obtain a pass (Appendix V) from the British Joint-Commissioner at Leh, or in his absence from the Kashmir Joint-Commissioner at that place, or from the Deputy Commissioner of the frontier district. The name of the merchant, the quantity of Charas (both the gross weight of the packages and the net of the Charas being given), the tract of country, and period of time covered by the pass, shall be entered. Merchants bringing Charas from Yarkand into the Kangra district, not covered by a pass from the Joint-Commissioner at Leh, must obtain a provisional pass from the Tahsildar of Kulu, which shall protect the Charas until a regular pass can be obtained at the head-quarters of the district at Dharmsala.

[NOTE.—This rule has been amended by Financial Commissioner's Book Circular No. XXXIII of 1877].

*Supplementary Rules concerning grant of Transport Passes for Charas by Assistant Commissioner of Kulu and Tahsildar of Kulu.*

14 *A*.—If, however, the trader does not wish to go to Dharmsala, but wishes to transport his Charas direct from Kulu to any place in British India beyond the Kangra District, the Assistant Commissioner of Kulu for the time being may grant him a transport pass in the form prescribed in Appendix III, valid as far as the place of destination mentioned in the pass. In granting such a pass the Assistant Commissioner shall observe the provisions of the Rules 15 *et seq.* relating to transport passes, and the transport shall be subject to all the conditions mentioned in the pass and in these Rules.

14 *B*. (1).—If the trader does not wish to go to Dharmsala, but wishes to transport his Charas direct from Kulu to any part of British India, and if the Assistant Commissioner of Kulu is absent from Sultanpur, the Tahsildar of Kulu may grant him a pass, valid, according to the desire of the trader, as far as Simla, Umballa, Ludhiana, or Hoshiarpur. The form of these passes shall be prescribed by the Financial Commissioner, and they shall be supplied to the Tahsildar of Kulu in books with consecutive serial numbers and with counterfoils: and the Tahsildar of Kulu in granting such a pass shall be bound to send a copy to the Deputy Commissioner of the district of Simla, Umballa, Ludhiana, or Hoshiarpur, as the case may be.

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Passes for export of Bhang to Central Provinces.

†At the request of the Commissioner of Excise, Central Provinces, the Financial Commissioner directs that no passes shall be given in the Punjab for export of Bhang to any part of the Central Provinces, unless the applicant for a pass is provided with a written permit from the Deputy Commissioner of the district into which the Bhang is to be conveyed. (*Financial Commissioner's Circular No.* 17 *of* 1884).

As regards the transport of Punjab Bhang into the North-Western Provinces, see Financial Commissioner's Book Circular No. XVIII of 1877.

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(2).—On arrival at the head-quarters of the district named in the pass, the trader shall without delay present the pass and the consignment covered by it to the Deputy Commissioner or to the Officer in charge of the Excise Revenue of the district, and after examination of the consignment, and weighment, the Deputy Commissioner shall if no offence appears to have been committed, deliver the consignment to the owner, and if the owner wishes to transport the Charas beyond the district, shall grant him a transport pass in the form prescribed in Appendix III.—(*Financial Commissioner's Circular No.* 32 *of* 1888).

15. The possession of Charas in any quantity exceeding 5 tolas, without a pass signed by one of the Officers mentioned in rule 14, is prohibited, but a reasonable time shall be allowed to enable the merchant to reach the head-quarters of the frontier district, or (in the case of Charas brought into Kulu) the Sultanpur tahsil.

16. No pass shall be issued for a smaller quantity than five seers. Merchants arriving in British territory possessing Charas in excess of 5 tolas and below 5 seers, must make arrangements for the disposal of such Charas to the Government farmer of Excise or his agents, or to wholesale dealers licensed under Section 15 of Act X of 1871. They should ascertain at the nearest police station or tahsil the names and addresses of these persons.

17. No fee shall be levied on account of the pass.

18. When application for a pass under these rules is made to the Deputy Commissioner of the frontier district or to the Joint Commissioner of Ladak, such Officer shall, on granting the pass, seal the packages with his official seal in such a manner that no Charas can be removed from the packages without breaking the seals.

19. Traders wishing to show a specimen of their Charas to any of the persons licensed to sell Charas wholesale under Section 15 of Act X of 1871, or to the Government farmer of Excise or his agents, may make an incision not more than two inches long in the case containing the Charas, and may take out a small quantity not exceeding two chataks in weight. Traders should be cautioned to make these incisions in the presence of some Revenue or Excise Officer not below the rank of a jamadar. Such incisions are to be made only at the instance of a person who in licensed to buy Charas.

20. The period of time covered by the pass may extend to any period not exceeding six months.

21. The tract of country covered by the pass may comprise any districts in the Punjab or North-Western Provinces named by the merchant, which can be reached by a continuous route

22. On entering any district mentioned in the pass other than that in which the pass has been granted, the merchant must present his pass for countersignature to the Deputy Commissioner or Collector of the district, or to the Tahsildar of the tahsil through which he intends to pass, who will examine the seals and compare the packages with the entries in the pass, and, after satisfying himself that the amount of Charas, after making allowance for deductions under rule 30, coincides with the amount entered in the pass, will attest it by his signature.

Addition to rules regarding import of charas.

NOTE.—The following rule, regarding the import of Charas into the Punjab from the territories of His Highness the Amir of Kashgar and Yarkand by any route over the Himalayan passes which lie to the South of His Highness' dominions is added under orders of Government.—(*Financial Commissioner's Book Circular No. XI of* 1875).

22 A. The necessity for examination of the Charas at the head-quarters of every district or tahsil through which it passes, which exists under the provisions of the preceding rule, may be obviated by the Charas being despatched by public conveyance (such as the Railway or Government Bullock Train, or any Carrying Company) in the following manner: The trader may present his pass to the Deputy Commissioner or Collector of the district from which he wishes to despatch his Charas by such conveyance, together with the receipt of the Company to which it is consigned, and the Deputy Commissioner or Collector shall then forward a copy of the pass to the Deputy Commissioner or Collector of the district in which the place of destination of the Charas is situated, intimating the time and place at which the Charas is expected to arrive, and such Deputy Commissioner or Collector shall arrange for the examination of the package on its arrival. The Charas shall not be liable to examination during the passage.

23. If on arrival at the head-quarters of any district mentioned in the pass, the merchant wishes to alter the route covered by the pass, or to convey part of the Charas to one place and part to another, the pass may be cancelled, and a fresh pass or passes granted.

24. If on the expiry of the period covered by the pass, the Charas is not all disposed of in the manner hereinafter described, the merchant must procure a fresh pass from the Deputy Commissioner or Collector of the district (covered by the pass) in which he may be.

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25. The fresh passes mentioned in the two preceding rules are subject to the same conditions, and confer the same privileges as the original pass.

26. The quantity of Charas actually in transit should be compared with the amount covered by the pass in the manner prescribed in rule 22 on each occasion on which it is presented for countersignature or renewal.

27. No sale of Charas under these rules shall be effected unless it is protected by a pass obtained as above.

28. The merchant on arriving at the head-quarters, or at any tahsil of any district mentioned in the pass, may dispose of his Charas to the person or persons holding the farm of the duties leviable on the retail sale of Charas for the district in which the sale is made, or the wholesale vendors of Charas licensed under Section 15 of Act X of 1871, but to no other person on penalty of the fines and forfeitures described in the Act.

29. On the occasion of every such intended sale the sealed package must be presented, if at head-quarters, to the Deputy Commissioner of the district, or, if at any tahsil, to the Tahsildar, with its seals unbroken, and the above-mentioned Officer after satisfying himself that the amount of Charas contained in the package corresponds with that entered in the pass (due allowance being made for the deduction mentioned in rule 30) will record the sale which may then be allowed, and will re-seal the packages in the manner described in rule 18.

The merchant must be warned that if the packages are found open, and any Charas is sold from them, except as above provided, he will be proceeded against under the Excise Law, and the packages will be liable to confiscation.

30. In all comparisons between the amount of Charas in transit and the amount covered by the pass, allowance shall be made for previous sales recorded under rule 29, and for samples given under rule 19, and for dryage.

*IV.—Special Rules for Palampur (Section 40).*

31. The time for holding the annual Palampur fair shall be determined by the Commissioner. The limits of the fair shall be determined and demarcated under the orders of the Commissioner. The date of commencement and of termination of the fair shall be duly notified.

32. Within the limits of the fair the wholesale trade in Charas shall be free from duty at all times of the year.

33. During the period of the fair and within the prescribed limits, wholesale transactions in Charas may be conducted without passes.

34. Passes shall be issued at Palampur by the Naib-Tahsildar, or such other Officer as the Commissioner shall appoint, either during the fair or at any other time.

35. A pass shall entitle the holder to sell Charas in quantities of 5 seers and upwards to any other holder of a pass or to any licensed vendor, but not to the general public.

36. A register of passes shall be kept up, and the drug contractor shall be at liberty to inspect it.

37. No fee or duty shall be payable on account of any wholesale transaction at Palampur.

38. During the fair, retail sale of Charas may be permitted by license on such terms as the Commissioner may determine.

39. After the conclusion of the fair, holders and exporters of Charas shall be required to take out passes for the possession or transport of the same, and shall be at liberty to sell wholesale to any holder of a pass.

40. All persons dealing in Charas in accordance with these rules shall be deemed to be "suppliers of licensed vendors."

*V.—Special rules for the transport and possession of Charas in the Kangra district, sanctioned by Financial Commissioner in letter No. 1757, dated 25th March 1869, to Commissioner, Jalandhar.*

41. The possession of Charas in any quantity exceeding five tolas without a pass signed by an Officer authorized by the Commissioner to issue passes is prohibited.

42. Passes may be either for "transport" or for "possession" of the quantity of Charas stated in them. Passes for "possession" of Charas hold good for the Kàngra district only.

43. No pass shall be issued for a smaller quantity than five sers.

44. Persons arriving in the Kàngra district possessing Charas in excess of 5 tolas and below five seers must make arrangements for the disposal of such Charas to the Government contractor or his agents.

45. For the purposes of these rules, a wholesale transaction shall be deemed to be any quantity not less than five seers.

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*VI.—What Excise Officers entitled to rewards under the Act.* (*Rule under Section* 79).

Book Cir. XX of 1864. What Excise officers entitled to rewards under the Act.

46. The Excise Daroga of a district and all Customs Officers in the Revenue Department below the rank of Náib-Tahsidár, and Officers in the Police below the rank of Deputy Inspector, shall, when acting as Excise Officers, be entitled to receive rewards under Section 79 of the Excise Act. Tahsildárs, Náib Tahsildárs, Deputy Inspectors of Police, and Officers of the Revenue or Police Departments in grades superior to these, shall not be entitled to share in such rewards unless otherwise specially ordered by the Financial Commissioner.

## APPENDIX I.

*Form of lease for the monopoly of retail sale of intoxicating drugs.*

In consideration of the monthly payments hereinafter specified, the monopoly of sale of intoxicating drugs (including Opium and all preparations of the poppy) for the district of is granted to (hereinafter called the contractor) for the period of (one year) from the (date), subject to the following conditions :—

1. The contractor shall pay to Government the sum of in the following monthly instalments :—

| | |
|---|---|
| For April ... ... ... ... ... ... | Rupees |
| May ... ... ... ... ... ... | ,, |
| June ... ... ... ... ... ... | ,, |
| July ... ... ... ... ... ... | ,, |
| August ... ... ... ... ... ... | ,, |
| September ... ... ... ... ... ... | ,, |
| October ... ... ... ... ... ... | ,, |
| November ... ... ... ... ... ... | ,, |
| December ... ... ... ... ... ... | ,, |
| January ... ... ... ... ... ... | ,, |
| February ... ... ... ... ... ... | ,, |
| March ... ... ... ... ... ... | ,, |

A sum equivalent to a sixth part of the sum payable for the whole year shall be deposited in advance by way of security. Credit will be given for this deposit in the adjustment of the last two monthly instalments due under this agreement. The instalments above specified shall be paid on the fifth day of each month for the preceding month.

2. No drugs (or Opium) shall be sold by the contractor or by any licensed vendor subordinate to him, except at shops duly authorized by the Revenue Authorities, the number and location of which are specified in the schedule hereto annexed. But every such shop shall be liable to be closed or removed at the discretion of the authorities. No compensation is claimable by the contractor on account of such closure or removal.

3. No sub-letting of this lease is permitted.

4. Should this lease be cancelled under Section 29 of Act X of 1871, the contractor shall not be called upon to pay more than the amount due to Government up to the date of such cancellation according to the above instalments.

5. In the event of the contractor failing to carry out the terms of this lease, the money deposited as security shall be forfeited to Government.

6. The licensed vendors subordinate to the contractor shall be considered to be his agents, and he is held responsible for the due fulfilment by them of all the conditions of their licenses.

7. Any breach of Excise Laws or Rules by a vendor subordinate to the contractor shall be held to be an infraction of this lease, unless otherwise specially provided for.

8. The contractor is at liberty to keep up such establishments for the repression of smuggling as he may think proper, and shall be entitled to the assistance of Government servants in the detection and apprehension of offenders against the Excise Laws.

9. The contractor is entitled to supply himself with drugs (and Opium) from any quarter he may think proper, provided that the Excise Laws and Rules are not infringed, and provided he does so under "passes" issued by competent authority.

10. The contractor is not entitled to sell by retail any drugs or Opium obtained by him except through the medium of retail shops within the limits to which this lease extends; but he may sell wholesale to any duly appointed Government contractor and licensed vendor of any district in the Punjab, provided the Excise Laws and any Rules that may be issued by competent authority regarding wholesale vend are not infringed.

11. Quantities in excess of the following are defined to be "wholesale" under Section 19 Act X of 1871 :

Ganjah or Bhang, or any preparation or admixture of the same, half one-fourth of a seer ;

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Charas, Opium, or any preparation or admixture of the same, except "post," five tolas.

Under para. 39 of the rules issued with Government Notification No. 1244, dated 24th September 1873, no person other than a person holding a license, order or pass under these rules is allowed to have in his possession a greater quantity of "post" than five seers weight. A quantity in excess of five seers must therefore be held to be "wholesale."

12. Compensation on account of the departure of troops will be allowed under the rules in force.

13. The drugs supplied by the contractor should always be of good quality, and free from adulteration.

14. The contractor and retail vendors subordinate to him shall be at liberty to sell drugs at such prices as they think proper, without any interference on the part of Government.

15. No drugs shall be supplied to European Soldiers or Non-Commissioned Officers whether with their Regiments or on Staff, or Civil employ, or camp-followers of European Regiments, or to any servants, Natives or others, likely to have access to European Soldiers.

16. No drugs shall be sold on credit, either wholesale or retail, except to lessees and licensed vendors, as provided in rule 11.

17. No drugs shall be supplied to any insane person or to children.

18. The cultivators in districts where the "acreage system" is in force are at liberty to possess Opium, or "post" in excess of five tolas and five seers, respectively, and to sell it to any person who is authorized to purchase it under the terms of Act XXVI of 1872, and the rules made under Act IV of 1872 by the Local Government with the sanction of the Governor-General in Council.

19. The lease is subject to the conditions contained in the rules made under the Excise Act, X of 1871, and Act IV of 1872.

20. The contractor is bound to furnish returns of the sale of drugs and Opium at such period and in such forms as the Revenue Authorities may direct. He shall also furnish returns of the amount of Opium imported from other countries or provinces into the Punjab by himself and his agents.

*Signature of the Deputy Commissioner.*

*Dated* 18 .

*Signature of the Contractor.*

*Schedule showing the names of places at which licensed shops for the retail vend of intoxicating drugs have been authorized in the district for the year* 18 .

| 1 | 2 | 3 | 4 |
|---|---|---|---|
| District. | Name of places at which licensed shops for vend of intoxicating drugs are to be established. | Name of vendor. | Period for which the lease is given. |

## * APPENDEX II.

*Form of license for retail vend of Drugs and Opium.*

Registered number Name of vendor Locality

License for the retail vend of intoxicating drugs and Opium, and any preparation and admixture of the same is hereby granted to in the district of on

* In order that the import of Charas and drugs without a pass by a licensed vendor, or his agent, may be made punishable, as a breach of condition of the License (Section 57 of the Excise Act), it is requested that Licenses fo retail sale, in Form II of the Excise Rules, may contain an additional clause, as follows: supplementary to clause I—"*and that no Charas or other drugs shall be imported by the above-named vendor, or by any agents of his, except under a pass issued by competent authority.*"

Passes for Charas and other drugs.

2. Licenses and passes for opium will, from 1st April, be regulated by the new rules under the Opium Act issued in *Punjab Gazette* of 3rd January 1880. (*Financial Commissioner's Book Circular No. I of* 1880).

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the follow ingconditions, the infraction of any of which will involve the forfeiture of the license and the penalties prescribed by the A'bkari Laws :—

1. That this license is subordinate to the contractor for the monopoly of sale of Opium and intoxicating drugs for the district of

2. That no Opium or drugs shall be sold at this shop, except such as may be obtained from the above-named contractor, or with his knowledge and permission.

3. That no wearing apparel, jewels, or any articles, other than cash, shall be received in payments of Opium and drugs.

4. That sale of Opium and drugs are made only in the shop hereby licensed, and no where else.

5. That bad characters shall not be allowed to resort to the shop, and gaming and disorderly conduct shall be prevented therein; and that information of suspicious characters shall be given to the Magistrate or nearest Police Officer.

6. That a signboard shall be fixed at the door of the shop, with the name of the vendor and the designation "licensed retail vendor of Opium and intoxicating drugs."

7. That the shop shall be open to inspection by the A'bkari Officers at any hour, and that this license and the shop accounts shall be produced for inspection to any one authorized to require their production.

8. That the shop shall not be open, or sales made therein, before sunrise and after 8 P. M.

9. That the Opium or drugs sold or kept at this shop shall not be adulterated.

10. That no Opium or drugs shall be sold or supplied to any European soldier or camp-followers of European Regiments, or to any servants, natives or others, likely to have access to European soldiers.

11. That no Opium or drugs shall be sold on credit.

12. That Opium and drugs shall not be sold to any individual in greater quantities than the following :

Gánjah or Bhang or any preparation or admixture of the same, one-fourth of a seer.

Charas, Opium, or any preparation or admixture of the same, five tolas; † "post," five seers.

13. That no Opium or drugs shall be supplied to any insane person or to children.

14. That the orders of Government and of the Financial Commissioner, Punjab, on the subject of Opium and drugs, as contained in Book Circular No. IX of 1874, and in any other Circulars that have been or may be issued, shall be complied with.

*Dated* 18 . *Signature of Deputy Commissioner.*

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## APPENDIX III.

*Pass for Charas.*

Register number
Name of merchant or dealer
Gross weight of package
Net weight of Charas
Place of destination (in the Punjab or the North-Western Provinces).
*District*
*Dated*

*Deputy Commissioner*

*Memo of sales made at intermediate Stations.*

Quantity of Charas sold
Weight of Charas remaining
Gross weight of package as reduced.

---

## APPENDIX IV.

[Book Circular V of 1870.] *Pass for intoxicating drugs (other than Opium or Charas).*

Register Number
Name of merchant, manufacturer, contractor, or agent
Net weight
Description of drug, stating place of growth
Destination
*District*
*Dated*

*Deputy Commissioner.*

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* See Financial Commissioner's Circular Memo. No. 6198, dated 19th September 1874.

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APPENDIX V.

*Pass for Charas imported from the dominions of the Amir of Kashgar and Yarkand across the Himalayan passes which lie to the South of these dominions.*

Register, Number.
Name of merchant
Gross weight of packages
Net weight of Charas
Tract of country covered by the pass
Period for which the pass is given

*District or Place*
*Dated*

*Deputy Commissioner,*
*or*
*Joint-Commissioner at Leh,*
*or*
*Tahsildar, Sultanpur.*

MEMO. OF SALES.

Quantity of Charas sold
Weight of Charas remaining
Gross weight of package as reduced

---

Amended rules for the import and sale of Bhang.

(*c*). The passing of the Excise Act of 1881 has rendered necessary the republication, with certain alterations, of Book Circular XVII of 1881.

2. The use of Bhang is admitted to be very deleterious, and there is reason to believe that the total consumption is very greatly in excess of the quantities sold by the lessees of the monopoly of intoxicating drugs.

By Circular No. 13 of 1880, the opinion of all Deputy Commissioners was asked as to the advisability of issuing new rules to regulate the cultivation, sale, and storing of Bhang. The District Officers consulted, with few exceptions, gave it as their opinion that it is either unnecessary or impracticable to bring the cultivation and sale of Bhang under stricter regulations than at present. The Financial Commissioner concurs in this opinion. The circumstances of the growth of Bhang in the Punjab make it almost impossible to regulate the cultivation, for the plant grows wild in large quantities in the Himalayas and in the adjacent parts of the plains. The wild growth of these sub-montane tracts supplies most of the Bhang used in the other districts of the Punjab, where the climate is generally too dry for the wild growth of the plant. Some Bhang is, however, also cultivated in the latter districts, generally in very small patches, or in the shape of a few plants sown, mixed with other plants in a garden or by a well. If once sown in such land, the plant will generally seed itself, and come up here and there without further cultivation.

3. It appears probable that the provisions of the existing law, specially as to passes, are not in all cases carried out. The attention of all District Officers is therefore directed to the rules which are at present in force on the subject :—

(*a*). By Sections 12 and 13 of the Act, no one is allowed to sell Bhang, except under license granted by the Collector.

(*b*). This rule is, however, subject to the proviso that any cultivator of Bhang may sell it to any licensed vendor or to any person authorized to purchase Bhang by the Collector's order in writing.

(*c*). By Section 3 (*k*) no more than ¼ of a seer of Bhang may be sold by a retail vendor at one time to one person.

(*d*). By Sections 22 and 41, any person, other than a licensed vendor, having in his possession more than ¼ of a seer of Bhang, is liable to imprisonment for a term which may extend to three months, or to fine which may extend to Rs. 500, or to both. The cultivator of Bhang is protected by Section 12 (*d*), but if he sells to any one but a licensed vendor, or person authorized to purchase by the Collector, he is liable, under Section 39, to four months' imprisonment, or Rs. 1,000 fine, or both.

(*e*). By Section 20 the Financial Commissioner may make rules to regulate the grant of licenses or passes to persons possessing or transporting Bhang for supply of licensed vendors. The rules hitherto issued, and which under Section 2 of Act XXII of 1881 remain in force, are contained in Book Circular No IX of 1874, Section 2, paras. 11, 12, and 13 (Barkley's Directions to Revenue Officers, Appendix XI).

It is there provided that merchants importing Bhang must obtain a pass from the Deputy Commissioner of the Frontier District when they enter the Punjab, stating the quantity and the place of destination in the Punjab; and manufacturers who purchase the hemp plant from cultivators in order to prepare Bhang must obtain a similar pass. These passes authorize sale

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to any farmer of the excise of drugs at the place noted in the pass, or, provided the transaction be attested by a Deputy Commissioner or Tahsildar, at any Tahsil or Sadr Station. A farmer of the excise of drugs wishing to purchase Bhang beyond the limits of his farm, must obtain a similar pass from the Deputy Commissioner of the district, stating the quantity he is authorized to import, and this must be countersigned by the Deputy Commissioner of the district where the purchase is made, or, if he buys in a Native State, by the Deputy Commissioner of the nearest district.—(*Financial Commissioner's Circular No.* 3 *of* 1882).

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(*d*). As regards the management of distilleries and precautions to be taken in selling licenses, see *Financial Commissioner's Book Circular No. XXXII of* 1881.

For a revised form of the Quarterly Return of Excise Income, see Financial Commissioner's Circular No. 25 of 1886.

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(*e*). The following Rules for the regulation of the importation of Rum in bond from the Rosa Distillery in the Shahjahanpur District of the Punjab, which have been accepted by the Governments of the Punjab and North-Western Provinces, are hereby published for general information :—

I.—Persons desiring to import Rum and other spirits manufactured at Shahjahánpur into the Punjab, without payment of duty at the distillery, shall procure from the Deputy Commissioner of the district into which the spirit is to be imported a permit, stating the kind, quality, and amount of the spirit to be imported. On their presenting this permit to the Collector of Shahjahánpur, and executing a bond for the payment of duty to the Deputy Commissioner of the district into which the spirit is to be imported, the Collector will grant a pass to cover the removal of the spirit from the distillery into the district specified in the permit, and will at the same time send a letter of advice to the Deputy Commissioner of the said district, giving full particulars of the consignment. The bond and permit shall be in the forms annexed to these Rules.

II.—The following marks shall be legibly printed or cut on all the casks or other vessels containing the spirits, *viz.*, (1) the name of the distillery ; (2) the trade or other mark of the proprietor ; (3) the number of the cask or other vessel ; and (4) the quantity and strength of the contents. The above particulars should correspond with those entered in the letter of advice.

III.—The Financial Commissioner of the Punjab will appoint a place or places for the reception, examination and storage of all spirits imported under bond from Shahjahánpur, and such places shall be called Bonded Ware-houses.

IV.—Spirits imported under bond shall be brought into a bonded ware-house within one month from the date of the pass under which they were removed from the distillery, after which they will not be admitted, unless it be shown to the satisfaction of the Deputy Commissioner of the district where the bonded ware-house is situated that there was sufficient cause for the delay which has occurred in transit. In the event of the Deputy Commissioner finally refusing to admit the spirits, they shall be returned to the distillery from which they were issued. The spirit shall be conveyed to the bonded ware-house by the most direct route, and in the case of intentional deviation from the direct route shall be liable to confiscation.

V.—The spirit on arrival at the bonded ware-house shall be gauged and tested as to quantity and strength in the presence of the holder of the pass, an allowance of 5 per cent. being made for dryage and leakage. For any deficiency in quantity in excess of this allowance, double duty will be charged, unless it be shown to the satisfaction of the Deputy Commissioner of the place where the bonded ware-house is situated that the deficiency was due to accident. A certificate containing full particulars of the spirit stored in the ware-house will be delivered to the importer in lieu of the pass, which shall be returned to the Collector of Shahjahánpur with an endorsement showing the description, amount and strength of the spirit received in bond, and the amount of penalty, if any, exacted.

VI.—No spirit shall be removed from the ware-house except under a pass signed by the Deputy Commissioner, or other officer duly authorised by the Financial Commissioner to grant such passes, and until full duty has been paid thereon. Any spirit removed from the ware-house, except as above, will be liable to confiscation, and the person removing the liquor to the penalties prescribed by the Excise Law, provided that it shall be always competent to the Financial Commissioner to permit the removal of spirit from one bonded ware-house to another, or back to the distillery from which it was issued, without payment of duty. Notice shall be given to the Collector of Shahjahánpur of all passes granted under the rule, and of the sums paid on account of duty for the spirits removed from the ware-house.

VII.—Any establishments that may be considered necessary by the Financial Commissioner for the proper control of the ware-houses establised under Rule III, for the safe custody of their contents, and generally for the carrying out of these rules, shall be entertained and

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paid at the cost of the owners of the spirits stored therein, who shall also be liable to payment for the use of the ware-houses at such rates as may be fixed, from time to time, by order of the same authority.

*FORM OF BOND.*

No 188 .

WE *A. B.*, now of and *C D.* of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government Rs to be paid to the said Secretary of State in Council, for which payment we jointly and severally bind ourselves and our legal representatives.

*Date* (*Signed*).

THE ABOVE BOUNDEN having applied to the for and obtained permission to lodge in the ware-house at , for a period of the following goods, that is to say

THE CONDITION OF THIS Bond is that—

If the or their legal representatives shall observe all the rules prescribed by the Chief Revenue Authorities of the North-Western Provinces and Punjab to be observed by owners of goods ware-housed, and by persons obtaining permission to ware-house goods ;

AND if the said or their legal representatives shall pay to the Deputy Commissioner of all dues, whether Excise duties, ware-house dues, rent or other lawful charges, which shall be demandable on the said goods, or on account of penalties incurred in respect of them within from the date of this bond, or within such further time as the Chief Revenue Authority of the Punjab shall allow in that behalf, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said Deputy Commissioner ;

AND if within the term so fixed or enlarged the said goods having been removed from the said ware-house for home consumption, the full amount of all Excise duties, Ware-house dues, rent, and other lawful charges, penalties and interest demandable as aforesaid, shall have been first paid on the whole of the said goods :

This obligation shall be void.

Otherwise and on breach or failure in the performance of any part of this condition the same shall be in full force.

*Date* (*Signed*).

*FORM of PERMIT for importation of Spirits under Bond.*

Permission is hereby granted to to import into the District, without payment of duty, subject to the provisions of the rules in force in the Punjab relating to such importation, the spirits herein mentioned, manufactured at the Rosa Distillery, Shahjahánpur :—

| Description of spirit. | Quality and strength. | Quantity. |
|---|---|---|
| | | |

District of ——————— }
*Dated* 188 . } *Signature of Deputy Commissioner.*

(*Punjab Government Notification No.* 2514, *dated 8th October* 1884, *Punjab Gazette of 9th idem, Part I, page* 938).

(*ee*). IT appears from recent correspondence that doubts are felt by some officers in regard to the rules under which Shahjahanpur rum can be imported into the Punjab by private persons for their own consumption, and in regard to the power of the Collector of Shahjahanpur to issue passes for the export to the Punjab of rum and spirits of wine distilled at the Rosa Distillery without a permit from the Deputy Commissioner of the district to which the liquor is to be exported.

Importation of the Shajahanpur Rum into the Punjab.

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2. The Financial Commissioner desires to invite the attention of all Commissioners and Deputy Commissioners to rule 16 of the rules relating to distilleries worked after the English method (published with Book Circular VI of 1874). This rule should be held applicable to the Rosa Distillery, and the Collector of Shahjahanpur's special pass in Form III should be held to be a valid pass in the Punjab within the meaning of Sections 21 and 36 of the Excise Act, 1881.

3. It is to be observed that special passes in Form III are only granted to "accredited individuals." The Collector of Shahjehanpur will usually issue passes for private consumption without question to officers of Government, Native Chiefs, large landholders, merchants other than licensed vendors of liquor, and persons holding a similar social position, but will refuse to grant passes to other persons, (including licensed vendors of liquor) without an order or certificate from the Deputy Commissioner of the district in which the person resides.

4. Duplicates of all passes issued by the Collector will be sent to the Deputy Commissioner of the district to which the liquor is to be sent. All such duplicates should be entered in a register, one register being maintained for duplicates of passes in Form II, and another register for duplicates of passes in Form III. The Deputy Commissioner should examine these registers from time to time, and satisfy himself that rum is not being obtained for illicit sale under cover of passes issued for private consumption, and the register of duplicates in Form II should be occasionally compared with the accounts of receipts and issues which licensed vendors are bound to maintain. The practice of testing and measuring consignments of rum on arrival and comparing them with the duplicate passes received, which is reported to have prevailed in some districts, appears to the Financial Commissioner to be an unnecessary interference with trade, and should not be resorted to unless there is any reason to suspect an attempt to commit fraud or to evade compliance with the rules. (*Financial Commissioners Circular No* 1 *of* 1888).

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(*f*). WITH the approval of the Governments of the Punjab and of the North-Western Provinces and Oudh, the rules hereto appended* for regulating the import of spirits from Shahjahanpur into the Punjab in bond are published for general information.

Rules for the import of spirits in bond.

2. For the present only one bonded warehouse at Lahore will be established for the receipt of such spirits.

3. With reference to the provision in Rule 5, that the spirits on arrival at the bonded ware house shall be gauged and tested as to quantity and strength, the Financial Commissioner issues the following instructions :—

4. Out of each consignment received, one or two casks of each of the sizes of which the consignment consists should be gauged in the manner described in Appendix I of the Circular which shows the method of measuring spirits followed at the Rosa factory at Shahjahanpur. For the remainder of the consignment, the amount of dryage and leakage in transit in each cask may be ascertained by means of the graduated wooden rod referred to in the same Appendix. One or two of these measures will be supplied to every bonded warehouse that may be established. If the loss ascertained by the latter method (which only gives approximate results) should be found to exceed 5 per cent., the actual loss should be ascertained by filling up the cask to the recorded "wet dip" with liquor from another cask by means of a spirit measure of known capacity.

5. When the contents of each cask have been ascertained in this manner, and the strength of the spirit in each has been tested with a Sikes' hydrometer, the results should be entered in Form No. V of the forms prescribed in Appendix XI to Barkley's Directions to Revenue Officers, and a certified extract from the register delivered to the importer. The other registers and statement directed in the sameAppendix to be kept up at distilleries worked after the European method should also be opened and maintained at each bonded warehouse.

6. Experience having shown that spirits while gaining in flavour and wholesomeness lose both in strength and volume during storage, it is obviously only fair that some allowance should be made to importers on this account whenever spirits remain long in bond. In Appendix II will be found a table of rates of allowances for wastage on which duty is not chargeable on spirits in bond from three months to nine years, taken from the English excise laws ; and the Financial Commissioner authorizes deductions for wasteage being made when claimed at the rates shown in this table. The spirits need not be re-tested for strength unless at the time of issue they have remained more than a year in bond. The necessary corrections must be made in the register whenever spirits on being tested a second time are found to have lost in strength.

7. In Appendix III will be found a simple rule for gauging the bung contents of casks, which may be useful.

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* See NOTE (*c*) *super*.

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## APPENDIX I.

*Method of measuring Spirits followed at Rosa Factory.*

1. Empty cask is weighed, and weight recorded on head or end of cask as "tare."

2. Cask is filled with water measured in by a 5-gallon measure.

3. Contents found are recorded on head as "capacity" of the cask.

4. The head of the cask, therefore, records the weight of the cask and the quantity of rum it is capable of holding.

5. After emptying the water and drying cask, the rum is measured into the cask by 5-gallon measure, and the number of gallons filled in compared with "capacity" noted on head.

As soon as filled, the cask is weighed; "tare" previously recorded on head is deducted and nett weight of the rum is noted for comparison with the specific gravity of spirit at same strength and temperature. The specific gravity of one gallon of the rum is then taken after strength has been ascertained by a Sikes' hydrometer, and this multiplied by the number of gallons filled into the cask, furnishes a check for the weight noted as above. Before the cask is sent out, the "wet dip," or number of inches empty between the surface of the liquor and the bung is measured and noted on head of the cask. By checking this on arrival, which is easily done by withdrawing the bung and inserting a wooden measure, it will be at once seen what the loss in transit amounts to.

There are therefore two tests of accuracy:—

Contents by measuring in, gallon by gallon, and contents by weight.

*N.B.*—Primary measurement by water is for purpose of check, and also to preserve the cask taut, by storing full of water till required.

*Example.*—Fifty gallons rum being issued at L. P. Cask is weighed and found to be I Md. 10 Srs. 0 Ck. noted on head. Cask is filled with water to within 2 inches of bung; this space being always left to allow for expansion with difference in temperature. Quantity measured is found to be 51 gallons. Capacity of cask is noted on head.

M. S.C.
Tare... 1 16 0
Capacity 51 gallons
Wet dip 3 inches
50 gallon
L. P.

When required, water is emptied, cask allowed to dry.

Fifty gallons rum are then measured in, gallon by gallon, *i.e.*, by a 5-gallon measure—

| | M. S. C. |
|---|---|
| The hogshead is weighed and found to weigh ... ... | 6 35 0 |
| Tare weight is deducted ... ... ... ... | 1 10 0 |
| Leaving for the rum ... ... ... | 5 25 0 |

Strength is ascertained by a Sikes' hydrometer, say—

| | |
|---|---|
| Temperature 80°. Indication 54=L. P. | |
| One gallon is carefully weighed and found to be, say | 0 4 8 |
| Fifty gallons at 4 seers 8 chitáks give ... ... ... | 5 25 0 |

which corresponds with the actual weight of the rum by weighment, thus reconciling quantity found both by weight and measurement.

Wet dip is then taken and found to be 3 inches.

That is, the capacity of the hogshead when filled within 2 inches of bung was 51 gallons.

Fifty gallons rum measured in comes up to 3 inches from bung, or 1 inch lower for the 50 gallons than the original measurement of capacity, 51 gallons.

This shows that excess is not issued.

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## APPENDIX II.

*Table of fixed Rates and Limits of Allowance for wastage on which duty is not chargeable on Spirits in Bond from three months to nine years.*

| Time in bond. | | Limit of allowance, per cent. | Time in bond. | | Limit of allowance, per cent. | Time in bond. | | Limit of allowance, per cent. | Time in bond. | | Limit of allowance, per cent. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Year. | Month. | | Year. | Month. | | Year. | Month. | | Year. | Month. | |
| ... | 4 | 3·0 | 2 | 2 | 9·0 | 4 | ... | 12·9 | 5 | 10 | 15·7 |
| ... | 5 | 3·5 | 2 | 3 | 9·3 | 4 | 1 | 13·0 | 5 | 11 | 15·8 |
| ... | 6 | 4·0 | 2 | 4 | 9·5 | 4 | 2 | 13·2 | 6 | ... | 15·9 |
| ... | 7 | 4·3 | 2 | 5 | 9·8 | 4 | 3 | 13·3 | 6 | 2 | 16·0 |
| ... | 8 | 4·5 | 2 | 6 | 10·0 | 4 | 4 | 13·4 | 6 | 4 | 16·2 |
| ... | 9 | 4·8 | 2 | 7 | 10·3 | 4 | 5 | 13·5 | 6 | 6 | 16·3 |
| ... | 10 | 5·0 | 2 | 8 | 10·5 | 4 | 6 | 13·7 | 6 | 8 | 16·4 |
| ... | 11 | 5·3 | 2 | 9 | 10·8 | 4 | 7 | 13·8 | 6 | 10 | 16·5 |
| 1 | ... | 5·5 | 2 | 10 | 11·0 | 4 | 8 | 13·9 | 7 | ... | 16·7 |
| 1 | 1 | 5·8 | 2 | 11 | 11·3 | 4 | 9 | 14·0 | 7 | 2 | 16·8 |
| 1 | 2 | 6·0 | 3 | ... | 11·4 | 4 | 10 | 14·2 | 7 | 4 | 16·9 |
| 1 | 3 | 6·3 | 3 | 1 | 11·5 | 4 | 11 | 14·3 | 7 | 6 | 17·0 |
| 1 | 4 | 6·5 | 3 | 2 | 11·7 | 5 | ... | 14·4 | 7 | 8 | 17·2 |
| 1 | 5 | 6·8 | 3 | 3 | 11·8 | 5 | 1 | 14·5 | 7 | 10 | 17·3 |
| 1 | 6 | 7·0 | 3 | 4 | 11·9 | 5 | 2 | 14·7 | 8 | ... | 17·4 |
| 1 | 7 | 7·3 | 3 | 5 | 12·0 | 5 | 3 | 14·8 | 8 | 2 | 17·5 |
| 1 | 8 | 7·5 | 3 | 6 | 12·2 | 5 | 4 | 14·9 | 8 | 4 | 17·7 |
| 1 | 9 | 7·8 | 3 | 7 | 12·3 | 5 | 5 | 15·0 | 8 | 6 | 17·8 |
| 1 | 10 | 8·0 | 3 | 8 | 12·4 | 5 | 6 | 15·2 | 8 | 8 | 17·9 |
| 1 | 11 | 8·3 | 3 | 9 | 12·5 | 5 | 7 | 15·3 | 8 | 10 | 18·0 |
| 2 | ... | 8·5 | 3 | 10 | 12·7 | 5 | 8 | 15·4 | 9 | ... | 18·2 |
| 2 | 1 | 8·8 | 3 | 11 | 12·8 | 5 | 9 | 15·5 | ... | ... | ... |

## APPENDIX III.

*Rules for ganging the contents of Casks, extracted from pages 559 and 560 of Cape's Mathematics, Volume 1, 5th Edition.*

To compute the contents of a cask from three dimensions, *viz.*, the length, the bung diameter, and the head diameter (in inches).

*Rule.*—Add together the square of the bung diameter, half this square, the square of the head di meter, and the product of the two diameters; multiply the sum by the length, and the product by ·000,812. The last product will give the contents in imperial gallons, very nearly.

*Example.*—The length of a cask is 30 inches, the bung diameter 24 inches, and the head diameter 18 inches. What is the capacity in imperial gallons.

| | | |
|---|---|---|
| $(24)^2$ | ... ... ... = | 576 |
| Half of $(24)^2$ | ... ... ... = | 288 |
| $(18)^2$ | ... ... ... = | 324 |
| 18 × 24 | ... ... ... = | 432 |
| | | 1,620 |
| | | 30 |
| | | 48,600 |
| | | ·000,812 |
| | | 39·4632 |

The capacity is therefore 39·4632 imperial gallons.

(*Financial Commissioner's Circular No.* 46 *of* 1885).

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Resident of Kashmir authorized to grant passes for export of local-made liquor into the Punjab.

(*g*). THE attention of Revenue Officers is called to a Notification of the Local Government, published under Section 23 (1) of the Excise Act of 1881, as amended by Act II of 1887, whereby the Resident of Kashmir is appointed to be the officer to grant passes for the export of Kashmir-made liquor into the Punjab. The Notification is republished herewith as Appendix A for facility of reference.

2. The Financial Commissioner has also framed rules under Section 23 and Section 55 of the Excise Act of 1881, as amended by the latter Act of 1887, and these rules having received the sanction of the Local Government are attached as Appendix B.

3. The rates of import duty on Kashmir liquors brought into the Punjab will be as follows:—

On spirits, Rs. 5 per Imperial gallon or 6 quart bottles.

On sparkling wines, Rs. 2-8-0 per 6 quart bottles.

On all other wines, Re. 1 per 6 quart bottles.

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## APPENDIX A.

*Extract from Punjab Government Gazette Notification No.* 1048, *dated* 16*th May* 1888.

IN accordance with the provisions of Section 23 (1) of the Excise Act, XXII of 1881, as amended by Act II of 1887, the Hon'ble the Lieutenant-Governor is pleased to appoint, and hereby appoints, the Resident of Kashmir, for the time being, to be the Officer to grant passes for the import into the Punjab of spirits and fermented liquor manufactured in Kashmir.

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## APPENDIX B.

*Rules under Section* 23 *and Section* 55 *of the Excise Act, XXII of* 1881, *as amended by Act II of* 1887.

No spirit or fermented liquor shall be imported from Kashmir into the Punjab, except (*a*) by the route over the Kohala suspension bridge and through Murree, or (*b*) by the Jummoo and Siálkot route.

2. No person shall import spirit or fermented liquor manufactured in Kashmir into the Punjab, unless he holds a license in some district of the Punjab for either the wholesale or the retail vend of imported spirit or fermented liquor.

3. Every person desiring to import spirit or fermented liquor manufactured in Kashmir into the Punjab must first obtain from the Deputy Commissioner of the district in which he holds a license under the preceding rule a permit specifying the name of the importer, the amount and class of the spirit or fermented liquor to be imported and the district to which it is to be imported. On the production of such permit, and on the payment of the prescribed duty, the Resident in Kashmir will grant a pass for the import into the Punjab of spirit or fermented liquor to the amount specified in the permit.

The pass shall specify—

(*a*) The name of the importer ;

(*b*) The district in which he holds a license for the sale of imported spirit or fermented liquor ;

(*c*) The class and amount of spirit or fermented liquor, or both to be imported;

(*d*) The amount of duty paid ;

(*e*) The route to be followed ;

(*f*) The destination of the spirit or fermented liquor;

(*g*) The period during which the pass will remain in force;

The Resident shall send a duplicate of each pass to the Deputy Commissioner who issued the permit.

4. On arrival of the spirit or fermented liquor in the Punjab, the pass shall be presented for examination to the Assistant Commissioner or Extra Assistant Commissioner in charge of the Excise Revenue at Murree, Ráwalpindi, or Siálkot, as the case may be. If no material irregularity is discovered at such examination and the pass appears to be correct, the Assistant Commissioner or Extra Assistant Commissioner shall endorse it and return it to the person in charge of the spirit or fermented liquor imported. On arrival at the district from which the permit was obtained, the pass shall be again presented for examination to the officer in charge of the Excise Revenue of the district.

(*Financial Commissioner's Circular No.* 24 *of* 1888).

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## ACT No. XXIV of 1881.

*(Passed on the 26th October 1881).*

An Act to amend the Punjab Laws Act, 1872.

Preamble.

WHEREAS, in order to provide for the establishment of a system of municipal watchmen in certain municipalities in the territories administered by the Lieutenant-Governor of the Punjab, it is expedient to amend the Punjab Laws Act, 1872; It is hereby enacted as follows:

Short title.

1. This Act may be called "The Punjab Laws Amendment Act, 1881,".

Commencement.

and it shall come into force at once.

Substitution of new sections for Sections 39 A and 39 B.

2. For Sections 39 A. and 39 B. of the said Act the following sections shall be substituted:—

(*See Act IV of 1872, SS. 39 A and 39 B, ante* p. 659).

## ACT No. XXVI of 1881.

*(Passed on the 9th December 1881).*

An Act to define and amend the Law relating to Promissory Notes, Bills of Exchange, and Cheques.

Preamble.

WHEREAS it is expedient to define and amend the law relating to promissory notes, bills of exchange, and cheques; It is hereby enacted as follows:

### CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The Negotiable Instruments Act, 1881:"

Local extent.

It extends to the whole of British India; but nothing herein contained affects the Indian Paper Currency Act, 1871, section twenty-one, or affects any local usage relating to any instrument in an oriental language:

Saving of usages relating to hundis, &c.

Provided that such usages may be excluded by any words in the body of the instrument, which indicate an intention that the legal relations of the parties thereto shall be governed by this Act;

Commencement.

and it shall come into force on the first day of March, 1882.

Repeal of enactments.

2. On and from that day the enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof.

Interpretation-clause.

3. In this Act—

"Banker."

"Banker" includes also persons or a corporation, or company acting as bankers; and

"Notary Public."

"Notary Public" includes also any person appointed by the Governor-General in Council to perform the functions of a Notary Public under this Act.

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## CHAPTER II.

### Of Notes, Bills, and Cheques.

"Promissory note."

4. A "promissory note" is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

*Illustrations.*

A signs instruments in the following terms:—

(*a*). "I promise to pay B or order Rs. 500."

(*b*). "I acknowledge myself to be indebted to B in Rs. 1,000 to be paid on demand for value received."

(*c*). "Mr. B., I. O. U. Rs. 1,000."

(*d*). "I promise to pay B Rs. 500 and all other sums which shall be due to him."

(*e*). "I promise to pay B Rs. 500, first deducting thereout any money which he may owe me."

(*f*). "I promise to pay B Rs. 500, seven days after my marriage with C."

(*g*). "I promise to pay B Rs. 500 on D's death, provided D leaves me enough to pay that sum."

(*h*). "I promise to pay B Rs. 500 and to deliver to him my black horse on 1st January next."

The instruments respectively marked (*a*) and (*b*) are promissory notes. The instruments respectively marked (*c*), (*d*), (*e*), (*f*), (*g*) and (*h*) are not promissory notes.

"Bill of exchange."

5. A "bill of exchange" is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

A promise or order to pay is not "conditional," within the meaning of this section and section four, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain.

The sum payable may be "certain," within the meaning of this section and section four, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due.

The person to whom it is clear that the direction is given or that payment is to be made may be a "certain person," within the meaning of this section and section four, although he is mis-named or designated by description only.

"Cheque."

6. A "cheque" is a bill of exchange drawn on a specified banker, and not expressed to be payable otherwise than on demand.

"Drawer," "drawee."

7. The maker of a bill of exchange or cheque is called the "drawer;" the person thereby directed to pay is called the "drawee."

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When in the bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

"Drawee in case of need."

After the drawee of a bill has signed his assent upon the bill, or, if there are more parts thereof than one, upon one of such parts, and delivered the same, or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor."

"Acceptor."

When a bill of exchange has been noted or protested for non-acceptance or for better security, and any person accepts it *suprá protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

"Acceptor for honour."

NOTE.—The above clause is as amended by Act II of 1885, Section 2.

The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."

"Payee."

8. The "holder" of a promissory note, bill of exchange, or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.

"Holder."

Where the note, bill, or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

9. "Holder in due course" means any person who for consideration became the possessor of a promissory note, bill of exchange, or cheque, if payable to bearer,

"Holder in due course."

or the payee or indorsee thereof, if payable to, or to the order of, a payee,

before the amount mentioned in it become payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

10. "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

"Payment in due course."

11. A promissory note, bill of exchange, or cheque drawn or made in British India, and made payable in, or drawn upon any person resident in British India, shall be deemed to be an inland instrument.

Inland instrument.

12. Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

Foreign instrument.

13. A "negotiable instrument" means a promissory note, bill of exchange, or cheque expressed to be payable to a specified person or his order, or to the order of a specified person, or to the bearer thereof, or to a specified person or the bearer thereof.

"Negotiable instrument."

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Negotiation.

14. When a promissory note, bill of exchange, or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

Indorsement.

15. When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof, or on a slip of paper annexed thereto, or so signs for the same pur pose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

NOTE.—See Act XIII of 1886, Section 6.

Indorsement "in blank" and "in full." "Indorsee."

16. If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full," and the person so specified is called the "indorsee" of the instrument.

Ambiguous instruments.

17. Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly.

Where amount is stated differently in figures and words.

18. If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid.

Instruments payable on demand.

19. A promissory note or bill of exchange, in which no time for payment is specified, and a cheque, are payable on demand.

Inchoate stamped instrument.

20. Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in British India, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives *primâ facie* authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount: provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder.

"At sight." "On presentment." "After sight."

21. In a promissory note or bill of exchange the expressions "at sight" and "on presentment" mean on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or noting for non-acceptance, or protest for non-acceptance.

"Maturity."

22. The maturity of a promissory note or bill of exchange is the date on which it falls due.

"Days of grace."

Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight, or on presentment, is at maturity on the third day after the day on which it is expressed to be payable.

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Calculating maturity of bill or note payable so many months after date or sight.

**23.** In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument is dated, or presented for acceptance or sight, or noted for non-acceptance or protested for non acceptance, or the event happens, or, where the instrument is a bill of exchange made payable a stated number of months after sight and has been accepted for honor, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

*Illustrations.*

(*a*). A negotiable instrument, dated 29th January, 1878, is made payable at one month after date. The instrument is at maturity on the third day after the 28th February, 1878.

(*b*). A negotiable instrument, dated 30th August. 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

(*c*). A promissory note or bill of exchange, dated 31st August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

Calculating maturity of bill or note payable so many days after date or sight.

**24.** In calculating the date at which a promissory note or bill of exchange made payable a certain number of days after date or after sight or after a certain event is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.

When day of maturity is a holiday.

**25.** When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the next preceding business day.

*Explanation.*—The expression "public holiday" includes Sundays, New-Year's day, Christmas day: if either of such days falls on a Sunday, the next following Monday: Good Friday; and any other day declared by the Local Government, by notification in the official Gazette, to be a public holiday.

## CHAPTER III.

### Parties to Notes, Bills, and Cheques.

Capacity to make, &c., promissory note, &c.

**26.** Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery, and negotiation of a promissory note, bill of exchange, or cheque.

Minor.

A minor may draw, indorse, deliver, and negotiate such instruments so as to bind all parties except himself.

Corporation.

Nothing herein contained shall be deemed to empower a corporation to make, indorse, or accept such instruments except in cases in which, under the law for the time being in force, they are so empowered.

Agency.

**27.** Every person capable of binding himself or of being bound, as mentioned in section twenty-six, may so bind himself or be bound by a duly authorized agent acting in his name.

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A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

An authority to draw bills of exchange does not of itself import an authority to indorse.

Liability of agent signing

28. An agent who signs his name to a promissory note, bill of exchange or cheque, without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who induced him to sign upon the belief that the principal only would be held liable.

Liability of legal representative signing.

29. A legal representative of a deceased person who signs his name to a promissory note, bill of exchange, or cheque is liable personally thereon, unless he expressly limits his liability to the extent of the assets received by him as such.

Liability of drawer.

30. The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.

Liability of drawee of cheque.

31. The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default.

Liability of maker of note and acceptor of bill.

32. In the absence of a contract to the contrary, the maker of a promissory note and the acceptor before maturity of a bill of exchange are bound to pay the amount thereof at maturity according to the apparent tenor of the note or acceptance respectively, and the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party to the note or bill for any loss or damage sustained by him and caused by such default.

Only drawee can be acceptor in need or for honour.

33. No person except the drawee of a bill of exchange, or all or some of several drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

Acceptance by several drawees not partners.

34. Where there are several drawees of a bill of exchange, who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.

Liability of indorser.

35. In the absence of a contract to the contrary, whoever indorses and delivers a negotiable instrument before maturity, without, in such indorsement, expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker, to compensate such holder for any loss or damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided.

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Every indorser after dishonour is liable as upon an instrument payable on demand.

Liability of prior parties to holder in due course.

36. Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.

Maker, drawer, and acceptor principals.

37. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer, or acceptor, as the case may be.

Prior party a principal in respect of each subsequent party.

38. As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.

*Illustration.*

A draws a bill payable to his own order on B, who accepts. A afterwards indorses the bill to C, C to D, and D to E. As between E and B, B is the principal debtor, and A, C, and D are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

Suretyship.

39. When the holder of an accepted bill of exchange enters into any contract with the acceptor which, under Section 134 or 135 of the Indian Contract Act, 1872, would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged.

Discharge of indorser's liability.

40. Where the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

*Illustration.*

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsement in blank :

First indorsement, "B."
Second indorsement, "Peter Williams."
Third indorsement, "Wright & Co."
Fourth indorsement, "John Rozario."

This bill A puts in suit against John Rozario and strikes out, without John Rozario's consent, the indorsements by Peter Williams and Wright & Co. A is not entitled to recover anything from John Rozario.

Acceptor bound, although indorsement forged.

41. An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the indorsement to be forged when he accepted the bill.

Acceptance of bill drawn in fictitious name.

42. An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

Negotiable instrument made, &c., without consideration.

43. A negotiable instrument made, drawn, accepted, indorsed, or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without indorsement

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to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

*Exception I.*—No party for whose accommodation a negotiable instrument has been made, drawn, accepted, or indorsed can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

*Exception II.*—No party to the instrument who has induced any other party to make, draw, accept, indorse, or transfer the same to him for a consideration which he has failed to pay or perform in full shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed.

Partial absence or failure of money-consideration.

44. When the consideration for which a person signed a promissory note, bill of exchange or cheque, consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

*Explanation.*—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque, stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

*Illustration.*

A draws a bill on B for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

Partial failure of consideration not consisting of money.

45. Where a part of the consideration for which a person signed promissory note, bill of exchange, or cheque, though not consisting of money, is ascertainable in money without collateral enquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Holder's right to duplicate of lost bill.

45A. Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.

NOTE.—The above section has been added by Act II of 1885, Section 3.

## CHAPTER IV.

### OF NEGOTIATION.

Delivery.

46. The making, acceptance, or indorsement of a promissory note, bill of exchange, or cheque, is completed by delivery, actual or constructive.

As between parties standing in immediate relation, delivery to be effectual must be made by the party making, accepting, or indorsing the instrument, or by a person authorized by him in that behalf.

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As between such parties and any holder of the instrument other than a holder in due course, it may be shown that the instrument was delivered conditionally or for a special purpose only, and not for the purpose of transferring absolutely the property therein.

A promissory note, bill of exchange, or cheque payable to bearer is negotiable by the delivery thereof.

A promissory note, bill of exchange, or cheque payable to order is negotiable by the holder by indorsement and delivery thereof.

Negotiation by delivery.

**47.** Subject to the provisions of section fifty-eight, a promissory note, bill of exchange, or cheque, payable to bearer, is negotiable by delivery thereof.

*Exception.*—A promissory note, bill of exchange, or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice of the condition) unless such event happens.

*Illustrations.*

(*a*). A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated.

(*b*). A, the holder of a negotiable instrument payable to bearer, which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

Negotiation by indorsement.

**48.** Subject to the provisions of section fifty-eight, a promissory note, bill of exchange, or cheque, payable to the order of a specified person, or to a specified person or order, is negotiable by the holder by indorsement and delivery thereof.

Conversion of indorsement in blank into indorsement in full.

**49.** The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser.

Effect of indorsement.

**50.** The indorsement of a negotiable instrument followed by delivery, transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, restrict or exclude such right or may merely consititute the indorsee an agent to indorse the instrument, or to receive its contents for the indorser, or for some other specified person.

*Illustrations.*

B signs the following indorsements on different negotiable instruments payable to bearer:—

(*a*) "Pay the contents to C only."

(*b*) "Pay C for my use."

(*c*) "Pay C or order for the account of B."

(*d*) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

(*e*) "Pay C."

(*f*) "Pay C value in account with the Oriental Bank."

(*g*) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to the indorser and others."

These indorsements do not exclude the right of further negotiation by C.

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Who may negotiate.

51. Every sole maker, drawer, payee, or indorsee, or all of several joint makers, drawers, payees, or indorsees, of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded as mentioned in section fifty, indorse and negotiate the same.

*Explanation.*—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

*Illustration.*

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order" or any equivalent words. B may negotiate the instrument.

Indorser who excludes his own liability or makes it conditional.

52. The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon depend upon the happening of a specified event, although such event may never happen.

When an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

*Illustrations.*

(*a*). The indorser of a negotiable instrument signs his name, adding the words—

"Without recourse."

Upon this indorsement he incurs no liability.

(*b*). A is the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

Holder deriving title from holder in due course.

53. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

Instruments indorsed in blank.

54. Subject to the provisions hereinafter contained as to crossed cheques, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

Conversion of indorsement in blank into indorsement in full.

55. If a negotiable instrument, after having been indorsed in blank, is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

Indorsement for part of sum due.

56. No writing on a negotiable instrument is valid for the purpose of negotiation if such writing purports to transfer only a part of the amount appearing to be due on the instrument; but where such amount has been partly paid, a note to that effect may be indorsed on the instrument, which may then be negotiated for the balance.

Legal representative cannot by delivery only negotiate instrument indorsed by deceased.

57. The legal representative of a deceased person cannot negotiate by delivery only a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

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Instrument obtained by unlawful means or for unlawful consideration.

58. When a negotiable instrument has been lost, or has been obtained from any maker, acceptor, or holder thereof by means of an offence or fraud, or for an unlawful consideration, no possessor or indorsee who claims through the person who found or so obtained the instrument is entitled to receive the amount due thereon from such maker, acceptor, or holder, or from any party prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

Instrument acquired after dishonour or when overdue.

59. The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor:

Accommodation note or bill.

Provided that any person who, in good faith and for consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn, or accepted without consideration, for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

*Illustration.*

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

Instrument negotiable till payment or satisfaction.

60. A negotiable instrument may be negotiated (except by the maker, drawee, or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee, or acceptor at or after maturity, but not after such payment or satisfaction.

## CHAPTER V

### Of Presentment.

Presentment for acceptance.

61. A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place; and if at the due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured.

Where authorised by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.

NOTE.—The last clause has been added by Act II of 1885, Section 4.

Presentment of promissory note for sight

62. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight (if he can after reasonable search be found) by a person entitled to demand payment, within a reasonable time after

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it is made and in business hours on a business day. In default of such presentment no party thereto is liable thereon to the person making such default.

Drawee's time for deliberation.

63. The holder must, if so required by the drawee of a bill of exchange presented to him for acceptance, allow the drawee twenty-four hours (exclusive of public holidays) to consider whether he will accept it.

Presentment for payment.

64. Promissory notes, bills of exchange, and cheques must be presented for payment to the maker, acceptor, or drawee thereof respectively, by or on behalf of the holder, as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

Where authorized by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.

*Exception.*—Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

NOTE.—As amended by Act II of 1885, Section 4.

Hours for presentment.

65. Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours.

Presentment for payment of instrument payable after date or sight.

66. A promissory note or bill of exchange, made payable at a specified period after date or sight thereof, must be presented for payment at maturity.

Presentment for payment of promissory note payable by instalments.

67. A promissory note payable by instalments must be presented for payment on the third day after the day fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

Presentment for payment of instrument payable at specified place and not elsewhere.

68. A promissory note, bill of exchange, or cheque made, drawn, or accepted payable at a specified place and not elsewhere must, in order to charge any party thereto, be presented for payment at that place.

Instrument payable at specified place.

69. A promissory note, or bill of exchange made, drawn, or accepted payable at a specified place, must, in order to charge the maker or drawer thereof, be presented for payment at that place.

Presentment where no exclusive place specified.

70. A promissory note, or bill of exchange, not made payable as mentioned in sections sixty-eight and sixty-nine, must be presented for payment at the place of business (if any), or at the usual residence of the maker, drawee, or acceptor thereof, as the case may be.

Presentment when maker, &c., has no known place of business or residence.

71. If the maker, drawee, or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person whereever he can be found.

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Presentment of cheque to charge drawer.

72. A cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

Presentment of cheque to charge any other person.

73. A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person.

Presentment of instrument payable on demand.

74. Subject to the provisions of section thirty-one, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

Presentment by or to agent, representative of deceased, or assignee of insolvent.

75. Presentment for acceptance or payment may be made to the duly authorized agent of the drawee, maker, or acceptor, as the case may be, or where the drawee, maker, or acceptor has died, to his legal representative, or. where he has been declared an insolvent, to his assignee.

When presentment unnecessary.

76. No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases :—

(*a*) if the maker, drawee, or acceptor intentionally prevents the presentment of the instrument, or,

if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or,

if the instrument being payable at some other specified place, neither he nor any person authorised to pay it attends at such place during the usual business hours, or,

if the instrument not being payable at any specified place, he cannot after due search be found ;

(*b*) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment ;

(*c*) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part payment on account of the amount due on the instrument,

or promises to pay the amount due thereon in whole or in part,

or otherwise waives his right to take advantage of any default in presentment for payment ;

(*d*) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

Liability of banker for negligently dealing with bill presented for payment.

77. When a bill of exchange, accepted payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with, or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

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## CHAPTER VI.

### Of Payment and Interest.

To whom payment should be made.

**78.** Subject to the provisions of section eighty-two, clause (*c*), payment of the amount due on a promissory note, bill of exchange, or cheque, must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

Interest when rate specified.

**79.** When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the instrument, until tender or realization of such amount, or until such date after the institution of a suit to recover such amount as the Court directs.

Interest when no rate specified.

**80.** When no rate of interest is specified in the instrument, interest on the amount due thereon shall, except in cases provided for by the Code of Civil Procedure, Section 532, be calculated at the rate of six per centum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon, or until such date after the institution of a suit to recover such amount as the Court directs.

*Explanation.*—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

Delivery of instrument on payment, or indemnity in case of loss.

**81.** Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up to him, or if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

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## CHAPTER VI.

### Of Discharge from Liability on Notes, Bills, and Cheques.

Discharge from liability.

**82.** The maker, acceptor, or indorser respectively, of a negotiable instrument is discharged from liability thereon—

by cancellation;

(*a*) to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder;

by release;

(*b*) to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge;

by payment.

(*c*) to all parties thereto, if the instrument is payable to bearer, or has been endorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon.

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Discharge by allowing drawee more than twenty-four hours to accept.

**83.** If the holder of a bill of exchange allows the drawee more than twenty-four hours, exclusive of public holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

When cheque not duly presented and drawer damaged thereby.

**84.** When the holder of a cheque fails to present it for payment within a reasonable time, and the drawer thereof sustains loss or damage from such failure, he is discharged from liability to the holder.

Cheque payable to order.

**85.** Where a cheque payable to order purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

Parties not consenting, discharged by qualified or limited acceptance.

**86.** If the holder of a bill of exchange acquiesces in a qualified acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which, where the drawees are not partners, is not signed by all the drawees, all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him, unless on notice given by the holder they assent to such acceptance.

*Explanation.*—An acceptance is qualified—

(*a*) where it is conditional, declaring the payment to be dependent on the happening of an event therein stated;

(*b*) where it undertakes the payment of part only of the sum ordered to be paid;

(*c*) where, no place of payment being specified on the order, it undertakes the payment at a specified place and not otherwise or elsewhere; or where, a place of payment being specified in the order, it undertakes the payment at some other place, and not otherwise or elsewhere.

(*d*) where it undertakes the payment at a time other than that at which under the order it would be legally due.

Effect of material alteration.

**87.** Any material alteration of a negotiable instrument renders the same void as against any one who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties;

Alteration by indorsee.

and any such alteration, if made by an indorsee, discharges his indorsee from all liability to him in respect of the consideration thereof.

The provisions of this section are subject to those of sections twenty, forty-nine, eighty-six and one hundred and twenty-five.

Acceptor or indorser bound notwithstanding previous alteration.

**88.** An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Payment of instrument on which alteration is not apparent.

**89.** Where a promissory note, bill of exchange or cheque has been materially altered but does not appear to have been so altered,

or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated,

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payment thereof by a person or banker liable to pay, and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker from all liability thereon, and such payment shall not be questioned by reason of the instrument having been altered, or the cheque crossed.

Extinguishment of rights of action on bill in acceptor's hands.

90. If a bill of exchange which has been negotiated is, at or after maturity, held by the acceptor in his own right, all rights of action thereon are extinguished.

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## CHAPTER VIII.

### OF NOTICE OF DISHONOUR.

Dishonour by non-acceptance.

91. A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill, or where presentment is excused and the bill is not accepted.

Where the drawee is incompetent to contract, or the acceptance is qualified, the bill may be treated as dishonoured.

Dishonour by non-payment.

92. A promissory note, bill of exchange, or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill, or drawee of the cheque makes default in payment upon being duly required to pay the same.

By and to whom notice should be given.

93. When a promissory note, bill of exchange, or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note, or the drawee or acceptor of the dishonoured bill of exchange or cheque.

Mode in which notice may be given.

94. Notice of dishonour may be given to a duly authorized agent of the person to whom it is required to be given, or, where he has died, to his legal representative, or where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will he held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business or (in case such party has no place of business) at the residence of the party for whom it is intended.

If the notice is duly directed and sent by post and miscarries, such miscarriage does not render the notice invalid.

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Party receiving must transmit notice of dishonour.

**95.** Any party receiving notice of dishonour must, in order to render any prior party liable to himself, give notice of dishonour to such party within a reasonable time, unless such party otherwise receives due notice as provided by section ninety-three.

Agent for presentment.

**96.** When the instrument is deposited with an agent for presentment, the agent is entitled at the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

When party to whom notice given is dead.

**97.** When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

When notice of dishonour is unnecessary.

**98.** No notice of dishonour is necessary—

(*a*) when it is dispensed with by the party entitled thereto;

(*b*) in order to charge the drawer, when he has countermanded payment;

(*c*) when the party charged could not suffer damage for want of notice;

(*d*) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;

(*e*) to charge the drawers, when the acceptor is also a drawer;

(*f*) in the case of a promissory note which is not negotiable;

(*g*) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

## CHAPTER IX.

### Of Noting and Protest.

Noting.

**99.** When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument, or upon a paper attached thereto, or partly upon each.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured, and the notary's charges.

Protest.

**100.** When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such dishonour to be noted and certified by a notary public. Such certificate is called a protest.

Protest for better security.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

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Contents of protest.

**101.** A protest under section one hundred must contain—

(*a*) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon ;

(*b*) the name of the person for whom and against whom the instrument has been protested ;

(*c*) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public ; the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found ;

(*d*) when the note or bill has been dishonoured, the place and time of dishonour, and, when better security has been refused, the place and time of refusal ;

(*e*) the subscription of the notary public making the protest ;

(*f*) in the event of an acceptance for honour or of a payment for honour the name of the person by whom, or the person for whom, and the manner in which, such acceptance or payment was offered and effected.

A notary public may make the demand mentioned in clause (*c*) of this section either in person or by his clerk or, where authorised by agreement or usage, by registered letter.

NOTE.—The last clause has been added by Act II of 1885, Section 5.

Notice of protest.

**102.** When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions ; but the notice may be given by the notary public who makes the protest.

Protest for non-payment after dishonour by non-acceptance.

**103.** All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and hich are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment, in the place specified for payment, unless paid before or at maturity.

Protest of foreign bills.

**104.** Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

When noting equivalent to protest.

**104A.** For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding ; and the formal protest may be extended at any time thereafter as of the date of the noting.

NOTE.—The above section has been added by Act II of 1885, Section 6.

## CHAPTER X.

### OF REASONABLE TIME.

Reasonable time.

**105.** In determining what is a reasonable time for presentment, for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to

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similar instruments; and, in calculating such time, public holidays shall be excluded.

Reasonable time of giving notice of dishonour.

106. If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

Reasonable time for transmitting such notice.

107. A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

## CHAPTER XI.

### Of Acceptance and Payment for Honour and Reference in Case of Need.

Acceptance for honour.

108. When a bill of exchange has been noted or protested for non-acceptance or for better security, any person not being a party already liable thereon may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.

Note.—As amended by Act II of 1885, Section 7.

How acceptance for honour must be made.

109. A person desiring to accept for honour must, by writing on the bill under his hand declare that he accepts under protest the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour.

Note.—As amended by Act II of 1885, Section 8.

Acceptance not specifying for whose honour it is made.

110. Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

Liability of acceptor for honour.

111. An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not; and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

But an acceptor for honour is not liable to the holder of the bill unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable), forwarded for presentment not later than the day next after the day of its maturity.

When acceptor for honour may be charged.

112. An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment, and has been dishonoured by him, and noted or protested for such dishonour.

Payment for honour.

113. When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same,

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provided that the person so paying or his agent in that behalf has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

NOTE.—As amended by Act II of 1885, Section 9.

Right of payer for honour.

114. Any person so paying is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

Drawee in case of need.

115. Where a drawee in case of need is named in a bill of exchange or in any indorsement thereon, the bill is not dishonoured until it has been dishonoured by such drawee.

Acceptance and payment without protest.

116. A drawee in case of need may accept and pay the bill of exchange without previous protest.

## CHAPTER XII.

### OF COMPENSATION.

Rules as to compensation.

117. The compensation payable in case of dishonour of a promissory note, bill of exchange, or cheque, by any party liable to the holder or any indorsee shall (except in cases provided for by the Code of Civil Procedure, Section 532) be determined by the following rules:

(*a*) the holder is entitled to the amount due upon the instrument, together with expenses properly incurred in presenting, noting, and protesting it;

(*b*) when the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places;

(*c*) an indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment;

(*d*) when the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places;

(*e*) the party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him, together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

## CHAPTER XIII.

### SPECIAL RULES OF EVIDENCE.

Presumptions as to negotiable instruments.

118. Until the contrary is proved, the following presumptions shall be made:—

Of consideration;

(*a*) that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated, or

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transferred, was accepted, indorsed, negotiated, or transferred for consideration;

as to date;

(*b*) that every negotiable instrument bearing a date was made or drawn on such date;

as to time of acceptance;

(*c*) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity;

as to time of transfer;

(*d*) that every transfer of a negotiable instrument was made before its maturity;

as to order of indorsements;

(*e*) that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon;

as to stamp;

(*f*) that a lost promissory note, bill of exchange, or cheque was duly stamped;

that holder is a holder in due course.

(*g*) that the holder of a negotiable instrument is a holder in due course; provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burthen of proving that the holder is a holder in due course lies upon him.

Presumption on proof of protest.

**119.** In a suit upon an instrument which has been dishonoured, the Court shall, on proof of the protest, presume the fact of dishonour, unless and until such fact is disproved.

Estoppel against denying original validity of instrument.

**120.** No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn.

Estoppel against denying capacity of payee to indorse.

**121.** No maker of a promissory note and no acceptor of a bill of exchange payable to, or to the order of, a specified person shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the date of the note or bill, to indorse the same.

Estoppel against denying signature or capacity of prior party.

**122.** No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

## CHAPTER XIV.

### Of Crossed Cheques.

Cheque crossed generally.

**123.** Where a cheque bears across its face an addition of the words "and company," or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Cheque crossed specially.

**124.** Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a cross-

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ing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

Crossing after issue.

125. Where a cheque is uncrossed, the holder may cross it generally or specially.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally, or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection.

Payment of cheque crossed generally.

126. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of cheque crossed specially.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

Payment of cheque crossed specially more than once.

127. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Payment in due course of crossed cheque.

128. Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

Payment of crossed cheque out of due course.

129. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Cheque bearing "not negotiable."

130. A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

Non-liability of banker receiving payment of cheque.

131. A banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

## CHAPTER XV.

### Of Bills in Sets.

Set of bills.

132. Bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain

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unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, as a separate bill, would be extinguished.

*Exception.*—When a person accepts or indorses different parts of the bill in favour of different persons, he and the subsequent indorsers of each part are liable on such part as if it were a separate bill.

Holder of first acquired part entitled to all.

**133.** As between holders in due course of different parts of the same set, he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

## CHAPTER XVI.

### Of International Law.

Law governing liability of maker, acceptor, or indorser of foreign instrument.

**134.** In the absence of a contract to the contrary, the liability of the maker or drawer of a foreign promissory note, bill of exchange, or cheque, is regulated in all essential matters by the law of the place where he made the instrument, and the respective liabilities of the acceptor and indorser by the law of the place where the instrument is made payable.

*Illustration.*

A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent. and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is endorsed in British India, and is dishonoured. An action on the bill is brought against B in British India. He is liable to pay interest at the rate of 6 per cent. only; but if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

Law of place of payment governs dishonour.

**135.** Where a promissory note, bill of exchange, or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

*Illustration.*

A bill of exchange drawn and indorsed in British India, but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notices thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

Instrument made, &c., out of British India, but in accordance with its law.

**136.** If a negotiable instrument is made, drawn, accepted, or indorsed out of British India, but in accordance with the law of British India, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or indorsement made thereon in British India.

Presumption as to foreign law.

**137.** The law of any foreign country regarding promissory notes, bills of exchange, and cheques shall be presumed to be the same as that of British India, unless and until the contrary is proved.

## CHAPTER XVII.

### Notaries Public.

Power to appoint notaries public.

**138.** The Governor-General in Council may, from time to time, by notification in the official Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Act, and to exercise his

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functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Act.

NOTE.—For a list of persons appointed notaries public in the Punjab, see Government of India Notification No. 1672, dated 20th December 1883, *Gazette of India* of 22nd idem. See also No. 1696, dated 8th November 1888, *Gazette of India* of 10th idem.

Power to make rules for notaries public.

**139.** The Governor-General in Council may, from time to time, by notification in the official Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may, by such rules, (among other matters) fix the fees payable to such notaries.

Note.—Chapter XVII has been added by Act II of 1885, Section 10.

SCHEDULE.

(*a*)—STATUTES.

| Year and chapter. | Title. | Extent of repeal. |
|---|---|---|
| 9 Wm. III, c. 17 ... | An Act for the better payment of Inland Bills of Exchange. | The whole. |
| 3 & 4 Anne, c. 8 ... | An Act for giving like remedy upon promissory notes as is now used upon Bills of Exchange, and for the better payment of Inland Bills of Exchange. | The whole. |

(*b*)—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

| No. and year. | Title. | Extent of repeal. |
|---|---|---|
| VI of 1840 ... ... | An Act for the amendment of the law concerning the negotiation of Bills of Exchange. | The whole. |
| V of 1866 ... ... | An Act to amend in certain respects the commercial Law of British India. | Sections 11, 12, and 13. |
| XV of 1874 ... ... | The Laws Local Extent Act, 1874 ... ... | The first schedule, so far as relates to Act VI of 1840 and Act V of 1866, Sections 11, 12 and 13. |

NOTE.—In exercise of the power conferred by Section 180 of Act XXVI of 1881 (The Negotiable Instruments Act, 1881, as amended by Act II of 1885), the Governor-General in Council is pleased to make the following Rules for the guidance and control of Notaries Public appointed under that Act, and fixing the fees payable to those Notaries :—

1. Notaries Public shall, in transacting business under the Act, use the forms set forth in the Appendix to this Notification.

2. Besides recording declarations of payment for honour (Section 113), Notaries Public shall, following the practice existing in the Presidency-towns, also register notings and protests made by them. No particular form of register is necessary for these purposes, but Notaries Public shall keep a substantial blank book in which to enter copies of all the letters which they may write presenting bills for acceptance or payment or better security; of all bills* noted or protested or paid for honour, together with all endorsements thereon (including that made by themselves, to the effect that the bill has been noted or protested for non-acceptance or non-payment or want of better security); and of all protests made by themselves and of all declarations made by payers for honour. Notaries Public shall, further, after examination of each entry in the book, affix their signature thereto, and, where demand of acceptance or payment or better security was made by a clerk, shall cause him to affix his signature also to the entry relating to the demand.

* In cases where the language of the bill is unknown to the Notary Public, and where it is impossible to find any one acquainted with the language of the bill to copy it into the register, an entry in the register of an abstract of the bill will be sufficient.

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3. The book shall be known as the Notarial Register, and the pages thereof shall be numbered consecutively.

4. Every Notary Public shall permit the District Judge or such officer as the Local Government from time to time appoints in this behalf to inspect his register at such times, not oftener than twice a year, as the District Judge or officer may fix.

5. When the original instrument is in an Oriental language, any noting or protest or entry in his register which has to be made in respect of the instrument, by a Notary Public may be made either in that language or in English.

6. In making presentments of bills or notes, Notaries Public shall observe the provisions of Chapter V of the Act:

Provided that it shall not be necessary for a Notary Public to allow the drawee of a bill of exchange time for deliberation as provided by Section 63.

7. Every Notary Public shall use a plain circular seal, bearing, if he has been appointed by name, his name and the name of the local area within which he has been appointed to exercise his functions and the circumscription "Notary Public," and, if he has been appointed by virtue of his office, the name of his office, and of the local area within which he has been appointed to exercise his functions and the circumscription "Notary Public."

8. Every Notary Public shall have an office at such place within the local area for which he has been appointed as may be approved in this behalf by the District Judge.

9. Notaries Public shall charge fees at the rates mentioned below, namely :—

(1) For noting an instrument—

| | | | | Rs. | | Rs. |
|---|---|---|---|---|---|---|
| If the amount of the instrument does not exceed | | | | 1,000 | ... | 2 |
| If it exceeds | Rs. | 1,000 | but does not exceed | 5,000 | ... | 3 |
| Ditto | Rs. | 5,000 | ditto | 20,000 | ... | 5 |
| Ditto | Rs. | 20,000 | ditto | 30,000 | ... | 6 |
| Ditto | Rs. | 30,000 | ditto | 50,000 | ... | 7 |
| Ditto | Rs. | 50,000 | | | | 8 |

(2) For protesting an instrument—

| | | | | Rs. | | Rs. |
|---|---|---|---|---|---|---|
| If the amount of the instrument does not exceed | | | | 1,000 | ... | 6 |
| If it exceeds | Rs. | 1,000 | but does not exceed | 5,000 | ... | 7 |
| Ditto | Rs. | 5,000 | ditto | 20,000 | ... | 10 |
| Ditto | Rs. | 20,000 | ditto | 30,000 | ... | 11 |
| Ditto | Rs. | 30,000 | ditto | 40,000 | ... | 12 |
| Ditto | Rs. | 40,000 | ditto | 50,000 | ... | 13 |
| Ditto | Rs. | 50,000 | ditto | 60,000 | ... | 14 |
| Ditto | Rs. | 60,000 | ditto | 70,000 | ... | 15 |
| Ditto | Rs. | 70,000 | ditto | 80,000 | ... | 16 |
| Ditto | Rs. | 80,000 | ditto | 90,000 | ... | 17 |
| Ditto | Rs. | 90,000 | ditto | 1,00,000 | ... | 18 |
| Ditto | Rs. | 1,00,000 | ... | | ... | 22 |

(3) For recording a declaration of payment for honour 2-8

(4) Duplicate protests,—half the charge for the original.

NOTE.—In addition to the above fees, travelling allowance, at the rate of three annas a mile by rail and eight annas a mile by road, may be charged when the Notary Public is required to attend at any place more than one mile from his office.

10. These Rules shall come into force on the first day of January 1887.

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## APPENDIX.

### I.

### FORM OF NOTING.

(SEE SECTION 99).

*(To be made upon the Instrument or upon a paper attached thereto, or partly upon each).*

Reference to page in Notarial Register.

Date of presentment and dishonour.

Reason, if any, assigned for dishonour (or, if the instrument has not been expressly dishonoured, reason why holder treats it as dishonoured).

Date of Note

Notary's Charges. (Sd) *A. B.*,

Notary Public.

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II.

FORM OF PROTEST OF BILL OF EXCHANGE FOR NON-ACCEPTANCE.

(SEE SECTION 101).

On the day of 18 . I, *A. B.*, a Notary Public appointed under the Negotiable Instruments Act, 1881, of in (*here state the local area for which the Notary Public has been appointed*) in British India, at the request of *C. D.* of did, at (*in person*) (*by my clerk*) (*by registered letter*), cause due and customary presentment to be made to, and did demand acceptance of, the bill of exchange hereto annexed (or "a literal transcript whereof and of everything written or printed thereupon is hereto annexed") from *E. F.*, the person upon whom the said bill is drawn, to which demand he made answer (*state terms of answer, if any*) or "to which demand he gave no answer"); wherefore I, the said Notary, at the request aforesaid by this writing, do, in the presence of *M. N.* and *O. P.*, witnesses, protest against the drawer of the said bill of exchange and all other parties thereto and all others concerned for all exchange, re-exchange, and all costs, damages, and interest present and to come for want of acceptance of the said bill.

Which I attest.

(Sd). *A. B.*,

Notary Public.

*M. N.* } Witnesses.
*O. P.* }

NOTE.—When, after a bill is protested and before the protest is drawn up, it is accepted for honour, the protest should further state the name of the person by whom and of the person for whom, and the manner in which, such acceptance was offered and effected.

III.

FORM OF PROTEST OF BILL OF EXCHANGE FOR NON-ACCEPTANCE WHEN THE DRAWEE CANNOT BE FOUND.

(SEE SECTION 101).

(*a*) *Where search was made by Notary Public in person or by his clerk.*

On the day of 18 , I, *A. B.*, a Notary Public appointed under the Negotiable Instruments Act, 1881, of in (*here state the local area for which the Notary Public has been appointed*) in British India, at the request of *C. D.* of , did (*in person*) (*by my clerk*), make due search at for *E. F.* in order to present to, and demand from him, acceptance of the bill of exchange hereto annexed (or "a literal transcript whereof and of everything written or printed thereupon is hereto annexed,") which is drawn upon the said *E. F.*, but was unable to find him; wherefore I, the said Notary, at the request aforesaid by this writing, do, in the presence of *M. N.* and *O. P.*, witnesses, protest against the drawer of the said bill of exchange and all other parties thereto and all others concerned for all exchange, re-exchange, and all costs, damages, and interest present and to come for want of acceptance of the said bill.

(*b*) *Where registered letter was sent to the drawee.*

On the day of 18 , I, *A. B.*, a Notary Public appointed under the Negotiable Instruments Act, 1881, of in (*here state the local area for which the Notary Public has been appointed*) in British India, at the request of *C. D.* of , did send by post a registered letter addressed to *E. F.* at , wherein I enclosed and demanded from him acceptance of the bill of exchange hereto annexed (or "a literal transcript whereof and of everything written or printed thereupon is hereto annexed") which is drawn upon the said *E. F.*, but the letter was returned undelivered, because the said *E. F.* could not be found; wherefore I, the said Notary at the request aforesaid, by this writing, do, in the presence of *M. N.* and *O. P.*, witnesses, protest against the drawer of the said bill of exchange, and all other parties thereto and all others concerned for all exchange, re-exchange, and all costs, damages, and interest present and to come for want of acceptance of the said bill.

Which I attest.

(Sd.) *A. B.*,

Notary Public.

*M. N.* } Witnesses.
*O. P.* }

NOTE.—When, after a bill is protested and before the protest is drawn up, it is accepted for honour, the protest should further state the name of the person by whom and of the person for whom, and the manner in which, such acceptance was offered and effected.

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IV.

FORM OF PROTEST OF PROMISSORY NOTE OR BILL OF EXCHANGE FOR NON-PAYMENT.
(SEE SECTION 101).

On the day of 18 , I, *A. B.*, a Notary Public appointed under the Negotiable Instruments Act, 1881, of in (*here state the local area for which the Notary Public has been appointed*) in British India, at the request of *C. D.* of , did cause due and customary presentment to be made at (*in person*) (*by my clerk*) (*by registered letter*) to and did demand payment of the promissory note (or bill of exchange, *as the case may be*) hereto annexed (or "a literal transcript whereof and of everything written or printed thereupon is hereto annexed") from *E. F.*, the maker of the said promissory note (*or* drawee, *or* acceptor, of the said bill of exchange, *as the case may be*), to which demand he made answer (*state the terms of his answer, if any*) or ("to which demand he gave no answer"); wherefore I, the said Notary at the request aforesaid by this writing, do, in the presence of *M. N.* and *O. P.* witnesses, protest against the maker of the said promissory note (*or* the drawer of the said bill of exchange, *as the case may be*) and all other parties thereto and all others concerned for all exchange, re-exchange, and all costs, damages, and interest present and to come for want of payment of the said promisssory note (*or* bill of exchange, *as the case may be*).

Which I attest.
(Sd.) *A. B.*,
Notary Public.
*M. N.* } Witnesses.
*O. P.* }

NOTE.—When, after a bill is protested and before the protest is drawn up, it is paid for honour, the protest should further state the name of the person by whom and of the person for whom, and the manner in which, such payment was offered and effected.

V.

PROTEST OF PROMISSORY NOTE OR BILL OF EXCHANGE FOR NON-PAYMENT WHEN THE MAKER, DRAWEE, OR ACCEPTOR (AS THE CASE MAY BE) CANNOT BE FOUND.
(SEE SECTION 101).

(*a*) *Where search was made by Notary Public in person or by his clerk.*

On the day of 188 , I, *A. B.*, a Notary Public appointed under the Negotiable Instruments Act, 1881, of in (*here state the local area for which the Notary Public has been appointed*) in British India, at the request of *C. D.* of , did (*in person*) (*by my clerk*) make due search at for *E. F.*, the maker (or drawee, *or* acceptor, *as the case may be*) in order to present to and demand from him payment of the promissory note (or "bill of exchange," as the case may be) hereto annexed (or "a literal transcript whereof and of everything written or printed thereupon is hereto annexed"), but was unable to find him; wherefore I, the said Notary at the request aforesaid, by this writing, do, in the presence of *M. N.* and *O. P.* witnesses protest against the maker of the said promissory note (*or* drawer of the said bill of exchange, *as the case may be*) and all other parties thereto and all others concerned for all exchange, re-exchange and all costs, damages, and interest present and to come for want of payment of the said promissory note (*or* bill of exchange, *as the case may be*).

(*b*) *Where registered letter was sent to the maker, drawee, or acceptor.*

On the day of 18 , I, *A. B.*, a Notary Public appointed under the Negotiable Instruments Act, 1881, of in (*here state the local area for which the Notary Public has been appointed*) in British India, at the request of *C. D.* of , did send by post a registered letter addressed to *E. F.* at , the maker *or* drawee *or* acceptor (*as the case may be*), wherein I enclosed and demanded from him payment of the promissory note (or "bill of exchange," *as the case may be*) hereto annexed (or "a literal transcript whereof and of everything written or printed thereupon is hereto annexed"), but the letter was returned undelivered because the said *E. F.* could not be found; wherefore I, the said Notary, at the request aforesaid by this writing, do, in the presence of *M. N.* and *O. P.*, witnesses, protest against the maker of the said promissory note (*or* the drawer of the said bill of exchange, *as the case may be*) and all other parties thereto and all others concerned for all exchange, re-exchange, and all costs, damages and interest present and to come for want of payment of the said promissory note (*or* bill of exchange, *as the case may be*).

Which I attest.
(Sd.) *A. B.*,
Notary Public.
*M. N.* } Witnesses
*O. P.* }

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NOTE.—When, after a bill is protested and before the protest is drawn up, it is paid for honour, the protest should further state the name of the person by whom and of the person for whom, and the manner in which, such payment was offered and effected.

VI.

FORM OF PROTEST OF BILL OF EXCHANGE FOR BETTER SECURITY.
(SEE SECTION 101).

On the day of 18 , I, *A. B.*, a Notary Public appointed under the Negotiable Instruments Act, 1881, of in (*here state the local area for which the Notary Public has been appointed*) in British India at the request of *C. D.* of , did exhibit the bill of exchange hereto annexed (or "a literal transcript whereof and of everything written or printed thereupon is hereto annexed") to *E. F.*, the person on whom the said bill is drawn, and whose acceptance appears thereon, and did demand better security for the payment thereof when the same should become payable in consequence of the said *E. F.* having become insolvent (or "his credit having been publicly impeached," *as the case may be,*) to which demand he made answer (or "to which demand he gave no answer") ; wherefore I, the said Notary, at the request aforesaid, by this writing, do, in the presence of *M. N.* and *O. P.*, witnesses, protest against the drawer of the said bill of exchange and the acceptor and all other parties thereto and all others concerned for all exchange, re-exchange, and all costs, damages, and interest present and to come for want of better security for the payment of the said bill when due and payable.

Which I attest.

(Sd.) *A. B.*,
Notary Public.

*M. N.* }
*O. P.* } Witnesses.

NOTE.—When, after a bill is protested and before protest is drawn up, it is accepted for honour, the protest should further state the name of the person by whom and of the person for whom, and the manner in which, such acceptance was offered and effected.

VII.

FORM OF PROTEST OF BILL OF EXCHANGE FOR BETTER SECURITY WHEN THE ACCEPTOR CANNOT BE FOUND.

(SEE SECTION 101).

(*a*) *Where search was made by Notary Public in person or by his clerk.*

On the day of 18 , I, *A. B.*, a Notary Public appointed under the Negotiable Instruments Act, 1881, of in (*here state the local area for which the Notary Public has been appointed*) in British India, at the request of *C. D.* of , did (*in person*) (*by my clerk*) make due search at for *E. F.*, in order to exhibit the bill of exchange hereto annexed (or "a literal transcript whereof and of everything written or printed thereupon is hereto annexed") to the said *E. F.* the person on whom the said bill is drawn, and whose acceptance appears thereupon, and demand better security for the payment thereof when the same should become payable in consequence of his having become insolvent (or "his credit having been publicly impeached," *as the case may be*), but was unable to find him ; wherefore, I, the said Notary, at the request aforesaid, by this writing, do, in the presence of *M. N.* and *O. P.*, witnesses, protest against the drawer of the said bill of exchange and the acceptor and all other parties thereto and all concerned for all exchange, re-exchange, and all costs, damages, and interest present and to come for want of better security for the payment of the said bill when due and payable.

(*b*) *Where registered letter was sent to the acceptor.*

On the day of 18 , I, *A. B.*, a Notary Public appointed under the Negotiable Instruments Act, 1881, of in (*here state the local area for which the Notary Public has been appointed*) in British India, at the request of *C. D.* of , did send by post a registered letter addressed to *E. F.* at , wherein I enclosed the bill of exchange hereto annexed (*or* "a literal transcript whereof and of everything written or printed thereupon is hereto annexed"), and did by such letter demand from the said *E. F.*, the person on whom the said bill is drawn and whose acceptance appears thereon, better security for the payment thereof when the same should become payable in consequence of his having become insolvent (or "his credit having been publicly impeached," *as the case may be*), but the said letter was returned undelivered because the said *E. F.* could not be found ; wherefore I, the said Notary, at the request aforesaid, by this writing, do, in the presence of *M. N.* and *O. P.*, witnesses

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protest against the drawer of the said bill of exchange and the acceptor and all other parties thereto and all others concerned for all exchange, re-exchange, and all costs, damages, and interest present and to come for want of better security for the payment of the said bill when due and payable.

Which I attest.

(Sd.) *A. B.*,

Notary Public.

*M. N.* } Witnesses.
*O. P.* }

NOTE.—When, after a bill is protested and before the protest is drawn up, it is accepted for honour, the protest should further state the name of the person by whom and of the person to whom, and the manner in which such acceptance was offered and effected.

VIII.

FORM OF NOTICE OF PROTEST TO DRAWER TO BE GIVEN BY A NOTARY PUBLIC.
(SEE SECTION 102).

Take notice that a bill of exchange for (*here state the amount*) drawn by you under date the on and payable at has been dishonoured by non-acceptance (*or* non-payment, *as the case may be*) and protested, and that you will be held liable thereon.

(Sd.) *A. B.*,

Notary Public.

IX.

FORM OF NOTICE OF PROTEST TO INDORSER TO BE GIVEN BY A NOTARY PUBLIC.

(SEE SECTION 102).

Take notice that a bill of exchange for (*here state the amount*) drawn by under date the on and payable at and bearing your endorsement, has been dishonoured by non-acceptance (*or* non-payment, *as the case may be*) and protested and that you will be held liable thereon.

(Sd.) *A. B.*,

Notary Public.

X.

FORM OF NOTARIAL ACT OF DECLARATION HAVING BEEN MADE BY A PAYER FOR HONOUR.
(SEE SECTION 113).

On the day of 18 , I, *A. B.*, a Notary Public appointed under the Indian Negotiable Instruments Act, 1881, of (*here state the local area for which the Notary Public has been appointed*) in British India, do hereby certify that the bill of exchange hereto annexed (or "a literal transcript whereof and of everything written or printed thereupon is hereto annexed") (now protested for non-payment) was this day exhibited to *Y. Z.* of in the Presidency/Province of , in British India (*or* to his agent in this behalf, *as the case may be*), who declared before me that he, the said *Y. Z.*, would pay the amount of the said bill under protest for the honour of (*here insert the name of the party for whose honour the payment is to be made*), holding the said (*here insert the name of the party for whose honour the payment is to be made*) and the drawer and all other proper persons responsible to him, the said *Y. Z.* for the amount of the said bill and for all proper costs, interest, damages, and expenses: I have, therefore, in the presence of *M. N.* and *O. P.*, witnesses, granted this Notarial Act of honour accordingly.

Which I attest.

(Sd.) *A. B.*,

Notary Public.

*M. N.* } Witnesses.
*O. P.* }

(*Government of India Notification No.* 1433, *dated* 30*th September* 1886, *Gazette of India of* 2*nd October* 1886).

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# ACT No. II of 1882.

(*Passed on the* 13*th January* 1882).

An Act to define and amend the law relating to Private Trusts and Trustees.

Preamble.

WHEREAS it is expedient to define and amend the law relating to private trusts and trustees: It is hereby enacted as follows:—

## CHAPTER I.

### PRELIMINARY.

Short title.

1. This Act may be called "The Indian Trusts Act, 1882:"

Commencement.

and it shall come into force on the first day of March, 1882.

Local extent.

It extends in the first instance to the territories respectively administered by the Governor of Madras in Council, the Lieutenant-Governors of the North-Western Provinces and the Punjab, the Chief Commissioners of Oudh, the Central Provinces, Coorg and Assam; and the Local Government may from time to time, by notification in the official Gazette, extend it to any other part of British India.

Savings.

But nothing herein contained affects the rules of Muhummadan law as to *waqf*, or the mutual relations of the members of an undivided family as determined by any customary or personal law, or applies to public or private religious or charitable endowments, or to trusts to distribute prizes taken in war among the captors; and nothing in the second chapter of this Act applies to trusts created before the said day.

Repeal of enactments.

2. The Statute and Acts mentioned in the schedule hereto annexed shall, to the extent mentioned in the said schedule, be repealed in the territories to which this Act for the time being extends.

Interpretation-clause.

3. A "trust" is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him for the benefit of another, or of another and the owner:

"trust:"

"author of the trust:"

the person who reposes or declares the confidence is called the "author of the trust":

"trustee:"

the person who accepts the confidence is called the "trustee:"

"beneficiary":

the person for whose benefit the confidence is accepted is called the "beneficiary":

"trust property:"

the subject-matter of the trust is called "trust-property" or "trust-money."

"instrument of trust":

the "beneficial interest" or "interest" of the beneficiary is his right against the trustee as owner of the trust-property; and the instrument, if any, by which the trust is declared is called the "instrument of trust":

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a breach of any duty imposed on a trustee, as such, by any law for the time being in force, is called a "breach of trust":

"breach of trust":

and in this Act, unless there be something repugnant in the subject or context, "registered" means registered under the law for the registration of documents for the time being in force:

"registered":

a person is said to have "notice" of a fact either when he actually knows that fact or when, but for wilful abstention from inquiry or gross negligence, he would have known it, or when information of the fact is given to or obtained by his agent under the circumstances mentioned in the Indian Contract Act, 1872, Section 229;

"notice":

and all expressions used herein and defined in the Indian Contract Act, 1872, shall be deemed to have the meanings respectively attributed to them by that Act.

Expressions defined in Act IX of 1872.

## CHAPTER II.

### Of the Creation of Trusts.

Lawful purpose.

4. A trust may be created for any lawful purpose. The purpose of a trust is lawful unless it is

(*a*) forbidden by law, or

(*b*) is of such a nature that, if permitted, it would defeat the provisions of any law, or

(*c*) is fraudulent, or

(*d*) involves or implies injury to the person or property of another, or

(*e*) the Court regards it as immoral or opposed to public policy.

Every trust of which the purpose is unlawful is void. And where a trust is created for two purposes, of which one is lawful and the other unlawful, and the two purposes cannot be separated, the whole trust is void.

*Explanation.*—In this section, the expression "law" includes, where the trust-property is immoveable and situate in a foreign country, the law of such country.

*Illustrations.*

(*a*) A conveys property to B in trust to apply the profits to the nurture of female foundlings to be trained up as prostitutes. The trust is void.

(*b*) A bequeaths property to B in trust to employ it in carrying on a smuggling business, and out of the profits thereof to support A's children. The trust is void.

(*c*) A, while in insolvent circumstances, transfers property to B in trust for A during his life and after his death for B. A is declared an insolvent. The trust for A is invalid as against his creditors.

Trust of immoveable property.

5. No trust in relation to immoveable property is valid unless declared by a non-testamentary instrument in writing signed by the author of the trust or the trustee and registered, or by the will of the author of the trust or of the trustee.

Trust of moveable property.

No trust in relation to moveable property is valid unless declared as aforesaid, or unless the ownership of the property is transferred to the trustee.

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These rules do not apply where they would operate so as to effectuate a fraud.

Creation of trust.

6. Subject to the provisions of section five, a trust is created when the author of the trust indicates with reasonable certainty by any words or acts (*a*) an intention on his part to create thereby a trust, (*b*) the purpose of the trust, (*c*) the beneficiary, and (*d*) the trust-property, and (unless the trust is declared by will or the author of the trust is himself to be the trustee) transfers the trust-property to the trustee.

*Illustrations.*

(*a*) A bequeaths certain property to B, "having the fullest confidence that he will dispose of it for the benefit of" C. This creates a trust so far as regards A and B.

(*b*) A bequeaths certain property to B, "hoping he will continue it in the family." This does not create a trust, as the beneficiary is not indicated with reasonable certainty.

(*c*) A bequeaths certain property to B, requesting him to distribute it amongst such members of C's family as B should think most deserving. This does not create a trust, for the beneficiaries are not indicated with reasonable certainty.

(*d*) A bequeaths certain property to B, desiring him to divide the bulk of it among C's children. This does not create a trust, for the trust-property is not indicated with sufficient certainty.

(*e*) A bequeaths a shop and stock-in-trade to B, on condition that he pays A's debts and a legacy to C. This is a condition, not a trust for A's creditors and C.

Who may create trusts.

7. A trust may be created,

(*a*) by every person competent to contract, and,

(*b*) with the permission of a principal Civil Court of original jurisdiction, by or on behalf of a minor ;

but subject in each case to the law for the time being in force as to the circumstances and extent in and to which the author of the trust may dispose of the trust-property.

Subject of trust.

8. The subject-matter of a trust must be property transferable to the beneficiary.

It must not be a merely beneficial interest under a subsisting trust.

Who may be beneficiary.

9. Every person capable of holding property may be a beneficiary.

Disclaimer by beneficiary.

A proposed beneficiary may renounce his interest under the trust by disclaimer addressed to the trustee, or by setting up, with notice of the trust, a claim inconsistent therewith.

Who may be trustee.

10. Every person capable of holding property may be a trustee ; but where the trust involves the exercise of discretion, he cannot execute it unless he is competent to contract.

No one bound to accept trust.

No one is bound to accept a trust.

Acceptance of trust.

A trust is accepted by any words or acts of the trustee indicating with reasonable certainty such acceptance.

Disclaimer of trust.

Instead of accepting a trust, the intended trustee may within a reasonable period, disclaim it, and such disclaimer shall prevent the trust-property from vesting in him.

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A disclaimer by one of two or more co-trustees vests the trust-property in the other or others, and makes him or them sole trustee or trustees from the date of the creation of the trust.

*Illustrations.*

(*a*) A bequeaths certain property to B and C, his executors, as trustees, for D. B and C prove A's will. This is in itself an acceptance of the trust, and B and C hold the property in trust for D.

(*b*) A transfers certain property to B in trust to sell it and to pay out of the proceeds A's debts. B accepts the trust and sells the property. So far as regards B, a trust of the proceeds is created for A's creditors.

(*c*) A bequeaths a lákh of rupees to B upon certain trusts and appoints him his executor. B severs the lakh from the general assets and appropriates it to the specific purpose. This is an acceptance of the trust.

## CHAPTER III.

### Of the Duties and Liabilities of Trustees.

Trustee to execute trust.

11. The trustee is bound to fulfil the purpose of the trust, and to obey the directions of the author of the trust given at the time of its creation, except as modified by the consent of all the beneficiaries being competent to contract.

Where the beneficiary is incompetent to contract, his consent may for the purposes of this section, be given by a principal Civil Court of original jurisdiction.

Nothing in this section shall be deemed to require a trustee to obey any direction when to do so would be impracticable, illegal, or manifestly injurious to the beneficiaries.

*Explanation.*—Unless a contrary intention be expressed, the purpose of a trust for the payment of debts shall be deemed to be (*a*) to pay only the debts of the author of the trust existing and recoverable at the date of the instrument of trust, or, when such instrument is a will, at the date of his death, and (*b*) in the case of debts not bearing interest, to make such payment without interest.

*Illustrations.*

(*a*) A, a trustee, is simply authorized to sell certain land by public auction. He cannot sell the land by private contract.

(*b*) A, a trustee of certain land for X, Y and Z, is authorized to sell the land to B, for a specified sum. X, Y and Z, being competent to contract, consent that A may sell the land to C for a less sum. A may sell the land accordingly.

(*c*) A, a trustee for B and her children, is directed by the author of the trust to lend, on B's request, trust-property to B's husband, C, on the security of his bond. C becomes insolvent, and B requests A to make the loan. A may refuse to make it.

Trustee to inform himself of state of trust-property.

12. A trustee is bound to acquaint himself, as soon as possible, with the nature and circumstances of the trust-property; to obtain, where necessary, a transfer of the trust-property to himself; and (subject to the provisions of the instrument of trust) to get in trust-moneys invested on insufficient or hazardous security.

*Illustrations.*

(*a*) The trust-property is a debt outstanding on personal security. The instrument of trust gives the trustee no discretionary power to leave the debt so outstanding. The trustee's duty is to recover the debt without unneccessary delay.

(*b*) The trust-property is money in the hands of one of two co-trustees. No discretionary power is given by the instrument of trust. The other co-trustee must not allow the former to retain the money for a longer period than the circumstances of the case require.

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Trustee to protect title to trust-property.

13. A trustee is bound to maintain and defend all such suits, and (subject to the provisions of the instrument of trust) to take such other steps as, regard being had to the nature and amount or value of the trust-property, may be reasonably requisite for the preservation of the trust-property and the assertion or protection of the title thereto.

*Illustration.*

The trust-property is immoveable property which has been given to the author of the trust by an unregistered instrument. Subject to the provisions of the Indian Registration Act, 1877, the trustee's duty is to cause the instrument to be registered.

Trustee not to set up title adverse to beneficiary.

14. The trustee must not for himself or another set-up or aid any title to the trust-property adverse to the interest of the beneficiary.

Care required from trustee.

15. A trustee is bound to deal with the trust-property as carefully as a man of ordinary prudence would deal with such property if it were his own; and, in the absence of a contract to the contrary, a trustee so dealing is not responsible for the loss, destruction, or deterioration of the trust-property.

*Illustrations.*

(*a*) A, living in Calcutta, is a trustee for B, living in Bombay. A remits trust-funds to B by bills drawn by a person of undoubted credit in favour of the trustee as such, and payable at Bombay. The bills are dishonoured. A is not bound to make good the loss.

(*b*) A, a trustee of leasehold property, directs the tenant to pay the rents on account of the trust to a banker, B, then in credit. The rents are accordingly paid to B, and A leaves the money with B only till wanted. Before the money is drawn out, B becomes insolvent. A, having had no reason to believe that B was in insolvent circumstances, is not bound to make good the loss.

(*c*) A, a trustee of two debts for B, releases one and compounds the other, in good faith and reasonably believing that it is for B's interest to do so. A is not bound to make good any loss caused thereby to B.

(*d*) A, a trustee directed to sell the trust-property by auction, sells the same, but does not advertise the sale and otherwise fails in reasonable diligence in inviting competition. A is bound to make good the loss caused thereby to the beneficiary.

(*e*) A, a trustee for B, in execution of his trust, sells the trust-property, but from want of due diligence on his part fails to receive part of the purchase-money. A is bound to make good the loss thereby caused to B.

(*f*) A, a trustee for B of a policy of insurance, has funds in hand for payment of the premiums. A neglects to pay the premiums, and the policy is consequently forfeited. A is bound to make good the loss to B.

(*g*) A bequeaths certain monies to B and C as trustees and authorizes them to continue the trust-moneys upon the personal security of a certain firm in which A had himself invested them. A dies, and a change takes place in the firm. B and C must not permit the monies to remain upon the personal security of the new firm.

(*h*) A, a trustee for B, allows the trust to be executed solely by his co-trustee, C. C misapplies the trust-property. A is personally answerable for the loss resulting to B.

Conversion of perishable property.

16. Where the trust is created for the benefit of several persons in succession, and the trust-property is of a wasting nature or a future or reversionary interest, the trustee is bound, unless an intention to the contrary may be inferred from the instrument of trust, to convert the property into property of a permanent and immediately profitable character.

*Illustrations.*

(*a*) A bequeaths to B all his property in trust for C during his life, and on his death for D, and on D's death for E. A's property consists of three leasehold houses, and there is nothing in A's will to show that he intended the houses to be enjoyed in specie. B should sell the houses, and invest the proceeds in accordance with section twenty.

(*b*) A bequeaths to B his three leasehold houses in Calcutta and all the furniture therein in trust for C during his life, and on his death for D, and on D's death for E. Here an

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intention that the houses and furniture should be enjoyed in specie appears clearly, and B should not sell them.

Trustee to be impartial.

17. Where there are more beneficiaries than one the trustee is bound to be impartial, and must not execute the trust for the advantage of one at the expense of another.

Where the trustee has a discretionary power, nothing in this section shall be deemed to authorize the Court to control the exercise reasonably and in good faith of such discretion.

*Illustration.*

A, a trustee for B, C, and D is empowered to choose between several specified modes of investing the trust-property. A in good faith chooses one of these modes. The Court will not interfere, although the result of the choice may be to vary the relative rights of B, C, and D.

Trustee to prevent waste.

18. Where the trust is created for the benefit of several persons in succession and one of them is in possession of the trust-property, if he commits, or threatens to commit, any act, which is destructive or permanently injurious thereto, the trustee is bound to take measures to prevent such act.

Accounts and information.

19. A trustee is bound (*a*) to keep clear and accurate accounts of the trust property, and (*b*), at all reasonable times at the request of the beneficiary, to furnish him with full and accurate information as to the amount and state of the trust-property.

Investment of trust-money.

20. Where the trust-property consists of money and cannot be applied immediately or at an early date to the purposes of the trust, the trustee is bound (subject to any direction contained in the instrument of trust) to invest the money on the following securities, and on no others :—

(*a*) in promissory notes, debentures, stock, or other securities of the Government of India, or of the United Kingdom of Great Britain and Ireland ;

(*b*) in bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India ;

(*c*) in stock or debentures of, or shares in, Railway or other Companies, the interest whereon shall have been guaranteed by the Secretary of State for India in Council ;

(*d*) in debentures or other securities for money issued by, or on behalf of, any municipal body under the authority of any Act of a legislature established in British India ;

(*e*) on a first mortgage of immoveable property situate in British India : Provided that the property is not a leasehold for a term of years, and that the value of the property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the mortgage-money ; or

(*f*) on any other security expressly authorized by the instrument of trust, or by any rule which the High Court may from time to time prescribe in this behalf :

Provided that, where there is a person competent to contract, and entitled in possession to receive the income of the trust-property for his life, or for any greater estate, no investment or any security mentioned or referred to in clauses (*d*), (*e*) and (*f*) shall be made without his consent in writing.

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Mortgage of land pledged to Government under Act XXVI of 1871.

Deposit in Government Savings Bank.

21. Nothing in section twenty shall apply to investments made before this Act comes into force, or shall be deemed to preclude an investment on a mortgage of immoveable property already pledged as security for an advance under the Land Improvement Act, 1871, or in case the trust-money does not exceed three thousand rupees, a deposit thereof in a Government Savings Bank.

Sale by trustee directed to sell within a specified time.

22. Where a trustee directed to sell within a specified time extends such time, the burden of proving, as between himself and the beneficiary, that the latter is not prejudiced by the extension lies upon the trustee, unless the extension has been authorized by a principal Civil Court of original jurisdiction.

*Illustration.*

A bequeaths property to B, directing him with all convenient speed and within five years to sell it, and apply the proceeds for the benefit of C. In the exercise of reasonable discretion, B postpones the sale for six years. The sale is not thereby rendered invalid, but C, alleging that he has been injured by the postponement, institutes a suit against B to obtain compensation. In such suit the burden of proving that C has not been injured lies on B.

Liability for breach of trust.

23. Where the trustee commits a breach of trust, he is liable to make good the loss which the trust-property or the beneficiary has thereby sustained, unless the beneficiary has by fraud induced the trustee to commit the breach, or the beneficiary, being competent to contract, has himself, without coercion or undue influence having been brought to bear on him, concurred in the breach, or subsequently acquiesced therein, with full knowledge of the facts of the case and of his rights as against the trustee.

A trustee committing a breach of trust is not liable to pay interest except in the following cases:—

(*a*) where he has actually received interest:

(*b*) where the breach consists in unreasonable delay in paying trust-money to the beneficiary:

(*c*) where the trustee ought to have received interest, but has not done so:

(*d*) where he may be fairly presumed to have received interest.

He is liable, in case (*a*), to account for the interest actually received, and in cases (*b*), (*c*) and (*d*), to account for simple interest at the rate of six per cent. per annum, unless the Court otherwise directs.

(*e*) where the breach consists in failure to invest trust-money and to accumulate the interest or dividends thereon, he is liable to account for compound interest (with half-yearly rests) at the same rate:

(*f*) where the breach consists in the employment of trust-property or the proceeds thereof in trade or business, he is liable to account, at the option of the beneficiary, either for compound interest (with half yearly rests) at the same rate, or for the nett profits made by such employment.

*Illustration.*

(*a*). A trustee improperly leaves trust-property outstanding, and it is consequently lost; he is liable to make good the property lost, but he is not liable to pay interest thereon.

(*b*). A bequeaths a house to B in trust to sell it and pay the proceeds to C. B neglects to sell the house for a great length of time, whereby the house is deteriorated and its market price falls. B is answerable to C for the loss.

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(c) A trustee is guilty of unreasonable delay in investing trust-money in accordance with section twenty, or in paying it to the beneficiary. The trustee is liable to pay interest thereon for the period of the delay.

(d) The duty of the trustee is to invest trust-money in any of the securities mentioned in section twenty, clause (a), (b), (c) or (d). Instead of so doing, he retains the money in his hands. He is liable, at the option of the beneficiary, to be charged either with the amount of the principal money and interest, or with the amount of such securities as he might have purchased with the trust-money when the investment should have been made, and the intermediate dividends and interest thereon.

(e) The instrument of trust directs the trustee to invest trust-money either in any of such securities or on mortgage of immoveable property. The trustee does neither. He is liable for the principal money and interest.

(f) The instrument of trust directs the trustee to invest trust-money in any of such securities and to accumulate the dividends thereon. The trustee disregards the direction. He is liable, at the option of the beneficiary, to be charged either with the amount of the principal money and compound interest, or with the amount of such securities as he might have purchased with the trust-money when the investment should have been made, together with the amount of the accumulation which would have arisen from a proper investment of the intermediate dividends.

(g) Trust-property is invested in one of the securities mentioned in section twenty, clause (a), (b), (c), or (d). The trustee sells such security for some purpose not authorized by the terms of the instrument of trust. He is liable, at the option of the beneficiary, either to replace the security with the intermediate dividends and interest thereon, or to account for the proceeds of the sale with interest thereon.

(h) The trust-property consists of land. The trustee sells the land to a purchaser for a consideration without notice of the trust. The trustee is liable, at the option of the beneficiary, to purchase other land of equal value to be settled upon the like trust, or to be charged with the proceeds of the sale with interest.

No set-off allowed to trustee.

**24.** A trustee who is liable for a loss occasioned by a breach of trust in respect of one portion of the trust-property cannot set-off against his liability a gain which has accrued to another portion of the trust-property through another and distinct breach of trust.

Non-liability for predecessor's default.

**25.** Where a trustee succeeds another, he is not, as such, liable for the acts or defaults of his predecessor.

Non-liability for co-trustee's default.

**26.** Subject to the provisions of sections thirteen and fifteen, one trustee is not, as such, liable for a breach of trust committed by his co-trustee :

Provided that, in the absence of an express declaration to the contrary in the instrument of trust, a trustee is so liable—

(a) where he has delivered trust-property to his co-trustee without seeing to its proper application :

(b) where he allows his co-trustee to receive trust-property and fails to make due enquiry as to the co-trustee's dealings therewith, or allows him to retain it longer than the circumstances of the case reasonably require :

(c) where he becomes aware of a breach of trust committed or intended by his co-trustee, and either actively conceals it or does not within a reasonable time take proper steps to protect the beneficiary's interest.

Joining in receipt for conformity.

A co-trustee who joins in signing a receipt for trust-property and proves that he has not received the same is not answerable, by reason of such signature only, for loss or misapplication of the property by his co-trustee.

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*Illustration.*

A bequeaths certain property to B and C, and directs them to sell it and invest the proceeds for the benefit of D. B and C accordingly sell the property, and the purchase-money is received by B and retained in his hands. C pays no attention to the matter for two years and then calls on B to make the investment. B is unable to do so, becomes insolvent, and the purchase-money is lost. C may be compelled to make good the amount.

Several liability of co-trustees.

**27.** Where co-trustees jointly commit a breach of trust, or where one of them by his neglect enables the other to commit a breach of trust, each is liable to the beneficiary for the whole of the loss occasioned by such breach.

Contribution as between co-trustees.

But as between the trustees themselves, if one be less guilty than another and has had to refund the loss, the former may compel the latter, or his legal representative to the extent of the assets he has received, to make good such loss; and if all be equally guilty, any one or more of the trustees who has had to refund the loss may compel the others to contribute.

Nothing in this section shall be deemed to authorize a trustee who has been guilty of fraud to institute a suit to compel contribution.

Non-liability of trustee paying without notice of transfer by beneficiary.

**28.** When any beneficiary's interest becomes vested in another person, and the trustee, not having notice of the vesting, pays or delivers trust-property to the person who would have been entitled thereto in the absence of such vesting, the trustee is not liable for the property so paid or delivered.

Liability of trustee where beneficiary's interest is forfeited to Government.

**29.** When the beneficiary's interest is forfeited or awarded by legal adjudication to Government, the trustee is bound to hold the trust-property to the extent of such interest for the benefit of such person in such manner as the Government may direct in this behalf.

Indemnity of trustees.

**30.** Subject to the provisions of the instrument of trust and of sections twenty-three and twenty-six, trustees shall be respectively chargeable only for such moneys, stocks, funds and securities as they respectively actually receive, and shall not be answerable the one for the other of them, nor for any banker, broker or other person in whose hands any trust-property may be placed, nor for the insufficiency or deficiency of any stocks, funds, or securities, nor otherwise for involuntary losses.

## CHAPTER IV.

### Of the Rights and Powers of Trustees.

Right to title-deeds.

**31.** A trustee is entitled to have in his possession the instrument of trust and all the documents of title (if any) relating solely to the trust-property.

Right to reimbursement of expenses.

**32.** Every trustee may reimburse himself, or pay or discharge out of the trust-property, all expenses properly incurred in or about the execution of the trust, or the realization, preservation, or benefit of the trust-property, or the protection or support of the beneficiary.

If he pays such expenses out of his own pocket he has a first charge upon the trust-property for such expenses and interest thereon; but such charge (unless the expenses have been incurred with the sanction of a prin-

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cipal Civil Court of original jurisdiction) shall be enforced only by prohibiting any disposition of the trust-property without previous payment of such expenses and interest.

If the trust-property fail, the trustee is entitled to recover from the beneficiary personally on whose behalf he acted, and at whose request, expressed or implied, he made the payment, the amount of such expenses.

Right to be recouped for erroneous over-payment.

Where a trustee has by mistake made an over-payment to the beneficiary, he may reimburse the trust-property out of the beneficiary's interest. If such interest fail, the trustee is entitled to recover from the beneficiary personally the amount of such over-payment.

Right to indemnity from gainer by breach of trust.

**33.** A person other than a trustee who has gained an advantage from a breach of trust must indemnify the trustee to the extent of the amount actually received by such person under the breach; and where he is a beneficiary the trustee has a charge on his interest for such amount.

Nothing in this section shall be deemed to entitle a trustee to be indemnified who has, in committing the breach of trust, been guilty of fraud.

Right to apply to Court for opinion in management of trust-property.

**34.** Any trustee may, without instituting a suit, apply by petition to a principal Civil Court of original jurisdiction for its opinion, advice, or direction on any present questions respecting the management or administration of the trust-property other than questions of detail, difficulty, or importance, not proper in the opinion of the Court for summary disposal.

A copy of such petition shall be served upon, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

The trustee stating in good faith the facts in such petition and acting upon the opinion, advice, or direction given by the Court shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee in the subject-matter of the application.

The costs of every application under this section shall be in the discretion of the Court to which it is made.

Right to settlement of accounts.

**35.** When the duties of a trustee, as such, are completed, he is entitled to have the accounts of his administration of the trust-property examined and settled; and, where nothing is due to the beneficiary under the trust, to an acknowledgment in writing to that effect.

General authority of trustee.

**36.** In addition to the powers expressly conferred by this Act and by the instrument of trust, and subject to the restrictions, if any, contained in such instrument, and to the provisions of section seventeen, a trustee may do all acts which are reasonable and proper for the realization, protection, or benefit of the trust-property, and for the protection or support of a beneficiary who is not competent to contract.

Every trustee in the actual possession or receipt of the rents and profits of land as defined in the Land Improvement Act, 1871, shall, for the purposes of that Act, be deemed to be a landlord in possession.

Except with the permission of a principal Civil Court of original jurisdiction, no trustee shall lease trust-property for a term exceeding

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twenty-one years from the date of executing the lease, nor without reserving the best yearly rent that can be reasonably obtained.

Power to sell in lots, and either by public auction or private contract.

37. When the trustee is empowered to sell any trust-property, he may sell the same subject to prior charges or not, and either together or in lots, by public auction or private contract, and either at one time or at several times, unless the instrument of trust otherwise directs.

Power to sell under special conditions.

Power to buy-in and re-sell.

38. The trustee making any such sale may insert such reasonable stipulations either as to title or evidence of title, or otherwise, in any conditions of sale or contract for sale, as he thinks fit; and may also buy-in the property or any part thereof at any sale by auction, and rescind or vary any contract for sale, and re-sell the property so bought in or as to which the contract is so rescinded, without being responsible to the beneficiary for any loss occasioned thereby.

Time allowed for selling trust-property.

When a trustee is directed to sell trust-property or to invest trust-money in the purchase of property, he may exercise a reasonable discretion as to the time of effecting the sale or purchase.

*Illustrations.*

(*a*) A bequeaths property to B, directing him to sell it with all convenient speed and pay the proceeds to C. This does not render an immediate sale imperative.

(*b*) A bequeaths property to B, directing him to sell it at such time and in such manner as he shall think fit and invest the proceeds for the benefit of C. This does not authorize B, as between him and C, to postpone the sale to an indefinite period.

Power to convey.

39. For the purpose of completing any such sale, the trustee shall have power to convey or otherwise dispose of the property sold in such manner as may be necessary.

Power to vary investments

40. A trustee may, at his discretion, call in any trust-property invested in any security and invest the same on any of the securities mentioned or referred to in section twenty, and from time to time vary such investments for others of the same nature.

Provided that, where there is a person competent to contract and entitled at the time to receive the income of the trust-property for his life, or for any greater estate, no such change of investment shall be made without his consent in writing.

Power to apply property of minors, &c., for their maintenance, &c.

41. Where any property is held by a trustee in trust for a minor, such trustee may, at his discretion, pay to the guardians (if any) of such minor, or otherwise apply for or towards his maintenance or education or advancement in life, or the reasonable expenses of his religious worship, marriage or funeral, the whole or any part of the income to which he may be entitled in respect of such property; and such trustee shall accumulate all the residue of such income by way of compound interest, by investing the same and the resulting income thereof from time to time in any of the securities mentioned or referred to in section twenty, for the benefit of the person who shall ultimately become entitled to the property from which such accumulations have arisen; Provided that such trustee may, at any time, if he thinks fit, apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year.

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Where the income of the trust-property is insufficient for the minor's maintenance or education or advancement in life, or the reasonable expenses of his religious worship, marriage or funeral, the trustee may, with the permission of a principal Civil Court of original jurisdiction, but not otherwise, apply the whole or any part of such property for or towards such maintenance, education, advancement, or expenses.

Nothing in this section shall be deemed to affect the provisions of any local law for the time being in force relating to the persons and property of minors.

Power to give receipts.

**42.** Any trustees or trustee may give a receipt in writing for any money, securities, or other moveable property payable, transferable or deliverable to them or him by reason, or in the exercise, of any trust or power, and, in the absence of fraud, such receipt shall discharge the person paying, transferring, or delivering the same therefrom, and from seeing to the application thereof, or being accountable for any loss or misapplication thereof.

Power to compound, &c.

**43.** Two or more trustees acting together may, if and as they think fit—

(*a*) accept any composition or any security for any debt or for any property claimed;

(*b*) allow any time for payment of any debt;

(*c*) compromise, compound, abandon, submit to arbitration, or otherwise settle any debt, account, claim, or thing whatever relating to the trust; and

(*d*) for any of those purposes, enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases, and other things as to them seem expedient, without being responsible for any loss occasioned by any act or thing so done by them in good faith.

The powers conferred by this section on two or more trustees acting together may be exercised by a sole acting trustee when by the instrument of trust, if any, a sole trustee is authorized to execute the trusts and powers thereof.

This section applies only if and as far as a contrary intention is not expressed in the instrument of trust, if any, and shall have effect subject to the terms of that instrument and to the provisions therein contained.

This section applies only to trusts created after this Act comes into force.

Power to several trustees of whom one disclaims or dies.

**44.** When an authority to deal with the trust-property is given to several trustees and one of them disclaims or dies, the authority may be exercised by the continuing trustees, unless from the terms of the instrument of trust it is apparent that the authority is to be exercised by a number in excess of the number of the remaining trustees.

Suspension of trustee's powers by decree.

**45.** Where a decree has been made in a suit for the execution of a trust, the trustee must not exercise any of his powers except in conformity with such decree, or with the sanction of the Court by which the decree has been made, or, where an appeal against the decree is pending, of the Appellate Court.

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## CHAPTER V.

### OF THE DISABILITIES OF TRUSTEES.

Trustee cannot renounce after acceptance.

46. A trustee who has accepted the trust cannot afterwards renounce it except (*a*) with the permission of a principal Civil Court of original jurisdiction, or (*b*), if the beneficiary is competent to contract, with his consent, or (*c*) by virtue of a special power in the instrument of trust.

Trustee cannot delegate.

47. A trustee cannot delegate his office or any of his duties either to a co-trustee or to a stranger, unless (*a*) the instrument of trust so provides, or (*b*) the delegation is in the regular course of business, or (*c*) the delegation is necessary, or (*d*) the beneficiary, being competent to contract, consents to the delegation.

*Explanation.*—The appointment of an attorney or proxy to do an act merely ministerial and involving no independent discretion, is not a delegation within the meaning of this section.

*Illustrations.*

(*a*) A bequeaths certain property to B and C on certain trusts to be executed by them or the survivor of them or the assigns of such survivor. B dies. C may bequeath the trust property to D and E upon the trusts of A's will.

(*b*) A is a trustee of certain property with power to sell the same. A may employ an auctioneer to effect the sale.

(*c*) A bequeaths to B fifty houses let at monthly rents in trust to collect the rents and pay them to C. B may employ a proper person to collect these rents.

Co-trustees cannot act singly.

48. When there are more trustees than one, all must join in the execution of the trust, except where the instrument of trust otherwise provides.

Control of discretionary power.

49. Where a discretionary power conferred on a trustee is not exercised reasonably and in good faith, such power may be controlled by a principal Civil Court of original jurisdiction.

Trustee may not charge for services.

50. In the absence of express directions to the contrary contained in the instrument of trust or of a contract to the contrary entered into with the beneficiary or the Court at the time of accepting the trust, a trustee has no right to remuneration for his trouble, skill, and loss of time in executing the trust.

Nothing in this section applies to any Official Trustee, Administrator-General, Public Curator, or person holding a certificate of administration.

Trustee may not use trust-property for his own profit.

51. A trustee may not use or deal with the trust-property for his own profit or for any other purpose unconnected with the trust.

Trustee for sale or his agent may not buy.

52. No trustee whose duty it is to sell trust-property, and no agent employed by such trustee for the purpose of the sale may, directly or indirectly, buy the same or any interest therein, on his own account or as agent for a third person.

Trustee may not buy beneficiary's interest without permission.

53. No trustee, and no person who has recently ceased to be a trustee, may, without the permission of a principal Civil Court of original jurisdiction, buy or become mortgagee or lessee of the trust-property or any part

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thereof; and such permission shall not be given unless the proposed purchase, mortgage, or lease is manifestly for the advantage of the beneficiary.

Trustee for purchase.

And no trustee whose duty it is to buy or to obtain a mortgage or lease of particular property for the beneficiary may buy it, or any part thereof, or obtain a mortgage or lease of it, or any part thereof, for himself.

Co-trustees may not lend to one of themselves.

**54.** A trustee or co-trustee whose duty it is to invest trust-money on mortgage or personal security must not invest it on a mortgage by, or on the personal security of, himself or one of his co-trustees.

## CHAPTER VI.

### OF THE RIGHTS AND LIABILITIES OF THE BENEFICIARY.

Rights to rents and profits.

**55.** The beneficiary has, subject to the provisions of the instrument of trust, a right to the rents and profits of the trust-property.

Right to specific execution.

**56.** The beneficiary is entitled to have the intention of the author of the trust specifically executed to the extent of the beneficiary's interest;

Right to transfer of possession.

and, where there is only one beneficiary and he is competent to contract, or where there are several beneficiaries and they are competent to contract and all of one mind, he or they may require the trustee to transfer the trust-property to him or them, or to such person as he or they may direct.

When property has been transferred or bequeathed for the benefit of a married woman so that she shall not have power to deprive herself of her beneficial interest, nothing in the second clause of this section applies to such property during her marriage.

*Illustrations.*

(*a*) Certain Government securities are given to trustees upon trust to accumulate the interest until A attains the age of 24, and then to transfer the gross amount to him. A on attaining majority may, as the person exclusively interested in the trust-property, require the trustees to transfer it immediately to him.

(*b*) A bequeaths Rs. 10,000 to trustees upon trust to purchase an annuity for B, who has attained his majority and is otherwise competent to contract. B may claim the Rs. 10,000.

(*c*) A transfers certain property to B and directs him to sell or invest it for the benefit of C, who is competent to contract. C may elect to take the property in its original character.

Right to inspect and take copies of instrument of trust, accounts, &c.

**57.** The beneficiary has a right, as against the trustee and all persons claiming under him with notice of the trust, to inspect and take copies of the instrument of trust, the documents of title relating solely to the trust-property, the accounts of the trust-property and the vouchers (if any) by which they are supported, and the cases submitted and opinions taken by the trustee for his guidance in the discharge of his duty.

Right to transfer beneficial interest.

**58.** The beneficiary, if competent to contract, may transfer his interest, but subject to the law for the time being in force as to the circumstances and extent in and to which he may dispose of such interest:

Provided that when property is transferred or bequeathed for the benefit of a married woman, so that she shall not have power to deprive herself of her beneficial interest, nothing in this section shall authorize her to transfer such interest during her marriage.

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59. Where no trustees are appointed, or all the trustees die, disclaim, or are discharged, or where for any other reason the execution of a trust by the trustee is or becomes impracticable, the beneficiary may institute a suit for the execution of the trust, and the trust shall, so far as may be possible, be executed by the Court until the appointment of a trustee or new trustee.

Right to sue for execution of trust.

60. The beneficiary has a right (subject to the provisions of the instrument of trust) that the trust-property shall be properly protected and held and administered by proper persons and by a proper number of such persons.

Right to proper trustees.

*Explanation I.*—The following are not proper persons within the meaning of this section :—

A person domiciled abroad : alien enemy : a person having an interest inconsistent with that of the beneficiary : a person in insolvent circumstances ; and, unless the personal law of the beneficiary allows otherwise, a married woman and minor.

*Explanation II.*—When the administration of the trust involves the receipt and custody of money, the number of trustees should be two at least.

*Illustrations.*

(*a*) A, one of several beneficiaries, proves that B, the trustee, has improperly disposed of part of the trust-property, or that the property is in danger from B's being in insolvent circumstances, or that he is incapacitated from acting as trustee. A may obtain a receiver of the trust-property.

(*b*) A bequeaths certain jewels to B in trust for C. B dies during A's lifetime ; then A dies. C is entitled to have the property conveyed to a trustee for him.

(*c*) A conveys certain property to four trustees in trust for B. Three of the trustees die. B may institute a suit to have three new trustees appointed in the place of the deceased trustees.

(*d*) A conveys certain property to three trustees in trust for B. All the trustees disclaim. B may institute a suit to have three trustees appointed in the place of the trustees so disclaiming.

(*e*) A, a trustee for B, refuses to act, or goes to reside permanently out of British India, or is declared an insolvent, or compounds with his creditors, or suffers a co-trustee to commit a breach of trust. B may institute a suit to have A removed and a new trustee appointed in his room.

61. The beneficiary has a right that his trustee shall be compelled to perform any particular act of his duty as such, and restrained from committing any contemplated or probable breach of trust.

Right to compel to any act of duty.

*Illustrations.*

(*a*) A contracts with B to pay him monthly Rs. 100 for the benefit of C. B writes and signs a letter declaring that he will hold in trust for C the money so to be paid. A fails to pay the money in accordance with his contract. C may compel B on a proper indemnity to allow C to sue on the contract in B's name.

(*b*) A is trustee of certain land, with a power to sell the same and pay the proceeds to B and C equally. A is about to make an improvident sale of the land. B may sue on behalf of himself and C for an injunction to restrain A from making the sale.

62. Where a trustee has wrongfully bought trust-property, the beneficiary has a right to have the property declared subject to the trust or retransferred by the trustee, if it remains in his hands unsold, or, if it has been bought from him by any person with notice of the trust, by such person. But in such case the beneficiary must repay the purchase-money paid by the trustee with interest, and such other expenses (if any) as he has properly incurred in the preservation of the property ; and the trustee or purchaser must (*a*) account for the nett profits of the property, (*b*) be charged with an occupa-

Wrongful purchase by trustee.

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tion-rent, if he has been in actual possession of the property, and (*c*) allow the beneficiary to deduct a proportionate part of the purchase-money if the property has been deteriorated by the acts or omissions of the trustee or purchaser.

Nothing in this section—

(*a*) impairs the rights of lessees and others who, before the institution of a suit to have the property declared subject to the trust or retransferred, have contracted in good faith with the trustee or purchaser; or

(*b*) entitles the beneficiary to have the property declared subject to the trust or retransferred where he, being competent to contract, has himself, without coercion or undue influence having been brought to bear on him, ratified the sale to the trustee with full knowledge of the facts of the case and of his rights as against the trustee.

Following trust-property—
into the hands of third persons;

63. Where trust-property comes into the hands of a third person inconsistently with the trust, the beneficiary may require him to admit formally, or may institute a suit for a declaration, that the property is comprised in the trust.

into that into which it has been converted.

Where the trustee has disposed of trust-property and the money or other property which he has received therefor can be traced in his hands, or the hands of his legal representative or legatee, the beneficiary has, in respect thereof, rights as nearly as may be the same as his rights in respect of the original trust-property.

*Illustrations.*

(*a*) A, a trustee for B of Rs. 10,000 wrongfully invests the Rs. 10,000 in the purchase of certain land. B is entitled to the land.

(*b*) A, a trustee, wrongfully purchases land in his name, partly with his own money, partly with money subject to a trust for B. B is entitled to a charge on the land for the amount of the trust-monies so misemployed.

Saving of rights of certain transferees.

64. Nothing in section sixty-three entitles the beneficiary to any right in respect of property in the hands of—

(*a*) a transferee in good faith for consideration without having notice of the trust, either when the purchase-money was paid or when the conveyance was executed, or—

(*b*) a transferee for consideration from such a transferee.

A judgment-creditor of the trustee attaching and purchasing trust property is not a transferee for consideration within the meaning of this section.

Nothing in section sixty-three applies to money, currency notes, and negotiable instruments in the hands of a *bonâ fide* holder to whom they have passed in circulation, or shall be deemed to affect the Indian Contract Act, 1872, Section 108, or the liability of a person to whom a debt or charge is transferred.

Acquisition by trustee of trust-property wrongfully converted.

65. Where a trustee wrongfully sells or otherwise transfers trust-property and afterwards himself becomes the owner of the property, the property again becomes subject to the trust, notwithstanding any want of notice on the part of the intervening transferees in good faith for consideration.

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Right in case of blended property.

66. Where the trustee wrongfully mingles the trust-property with his own, the beneficiary is entitled to a charge on the whole fund for the amount due to him.

Wrongful employment by partner trustee of trust-property for partnership purposes.

67. If a partner, being a trustee, wrongfully employs trust-property in the business or on the account of the partnership, no other partner is liable therefor in his personal capacity to the beneficiaries, unless he had notice of the breach of trust.

The partners having such notice are jointly and severally liable for the breach of trust.

*Illustrations.*

(*a*). A and B are partners. A dies, having bequeathed all his property to B in trust for Z, and appointed B his sole executor. B, instead of winding-up the affairs of the partnership, retains all the assets in the business. Z may compel him, as partner, to account for so much of the profits as are derived from A's share of the capital. B is also answerable to Z for the improper employment of A's assets.

(*b*). A, a trader, bequeaths his property to B in trust for C, appoints B his sole executor, and dies. B enters into partnership with X and Y in the same trade, and employs A's assets in the partnership-business. B gives an indemnity to X and Y against the claims of C. Here X and Y are jointly liable with B to C as having knowingly become parties to the breach of trust committed by B.

Liability of beneficiary joining in breach of trust.

68. Where one of several beneficiaries—

(*a*) joins in committing a breach of trust, or

(*b*) knowingly obtains any advantage therefrom, without the consent of the other beneficiaries, or

(*c*) becomes aware of a breach of trust committed or intended to be committed, and either actually conceals it, or does not within a reasonable time take proper steps to protect the interests of the other beneficiaries, or

(*d*) has deceived the trustee and thereby induced him to commit a breach of trust,

the other beneficiaries are entitled to have all his beneficial interest impounded as against him and all who claim under him (otherwise than as transferees for consideration without notice of the breach) until the loss caused by the breach has been compensated.

When property has been transferred or bequeathed for the benefit of a married woman, so that she shall not have power to deprive herself of her beneficial interest, nothing in this section applies to such property during her marriage.

Rights and liabilities of beneficiary's transferee.

69. Every person to whom a beneficiary transfers his interest has the rights, and is subject to the liabilities, of the beneficiary in respect of such interest at the date of the transfer.

## CHAPTER VII.

### Of Vacating the Office of Trustee.

Office how vacated.

70. The office of a trustee is vacated by his death or by his discharge from his office.

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Discharge of trustee.

71. A trustee may be discharged from his office only as follows :—

(a) by the extinction of the trust ;

(b) by the completion of his duties under the trust ;

(c) by such means as may be prescribed by the instrument of trust ;

(d) by appointment under this Act of a new trustee in his place ;

(e) by consent of himself and the beneficiary, or where there are more beneficiaries than one, all the beneficiaries being competent to contract, or

(f) by the Court to which a petition for his discharge is presented under this Act.

Petition to be discharged from trust.

72. Notwithstanding the provisions of section eleven, every trustee may apply by petition to a principal Civil Court of original jurisdiction to be discharged from his office ; and if the Court finds that there is sufficient reason for such discharge, it may discharge him accordingly, and direct his costs to be paid out of the trust-property. But where there is no such reason, the Court shall not discharge him, unless a proper person can be found to take his place.

Appointment of new trustees on death, &c.

73. Whenever any person appointed a trustee disclaims, or any trustee, either original or substituted, dies, or is for a continuous period of six months absent from British India, or leaves British India for the purpose of residing abroad, or is declared an insolvent, or desires to be discharged from the trust, or refuses or becomes, in the opinion of a principal Civil Court of original jurisdiction, unfit or personally incapable to act in the trust, or accepts an inconsistent trust, a new trustee may be appointed in his place by—

(a) the person nominated for that purpose by the instrument of trust (if any), or

(b) if there be no such person, or no such person able and willing to act, the author of the trust, if he be alive and competent to contract, or the surviving or continuing trustees or trustee for the time being, or legal representative of the last surviving and continuing trustee, or (with the consent of the Court) the retiring trustees, if they all retire simultaneously, or (with the like consent) the last retiring trustee.

Every such appointment shall be by writing under the hand of the person making it.

On an appointment of a new trustee the number of trustees may be increased.

The Official Trustee may, with his consent and by the order of the Court, be appointed under this section, in any case in which only one trustee is to be appointed and such trustee is to be the sole trustee.

The provisions of this section relative to a trustee who is dead include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee if willing to act in the execution of the power.

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Appointment by Court.

**74.** Whenever any such vacancy or disqualification occurs, and it is found impracticable to appoint a new trustee under section seventy-three, the beneficiary may, without instituting a suit, apply by petition to a principal Civil Court of original jurisdiction for the appointment of a trustee or a new trustee, and the Court may appoint a trustee or a new trustee accordingly.

Rule for selecting new trustees.

In appointing new trustees, the Court shall have regard (*a*) to the wishes of the author of the trust as expressed in or to be inferred from the instrument of trust; (*b*) to the wishes of the person, if any, empowered to appoint new trustees; (*c*) to the question whether the appointment will promote or impede the execution of the trust, and (*d*) where there are more beneficiaries than one, to the interests of all such beneficiaries.

Vesting of trust-property in new trustees.

**75.** Whenever any new trustee is appointed under section seventy-three or section seventy-four, all the trust-property for the time being vested in the surviving or continuing trustees or trustee, or in the legal representative of any trustee, shall become vested in such new trustee, either solely or jointly with the surviving or continuing trustees or trustee as the case may require.

Powers of new trustees.

Every new trustee so appointed, and every trustee appointed by a Court either before or after the passing of this Act, shall have the same powers, authorities, and discretions, and shall in all respects act, as if he had been originally nominated a trustee by the author of the trust.

Survival of trust.

**76.** On the death or discharge of one of several co-trustees, the trust survives and the trust-property passes to the others, unless the instrument of trust expressly declares otherwise.

## CHAPTER VIII.

### OF THE EXTINCTION OF TRUSTS.

Trust how extinguished.

**77.** A trust is extinguished—

(*a*) when its purpose is completely fulfilled; or

(*b*) when its purpose becomes unlawful; or

(*c*) when the fulfilment of its purpose becomes impossible by destruction of the trust-property or otherwise; or

(*d*) when the trust, being revocable, is expressly revoked.

Revocation of trust.

**78.** A trust created by will may be revoked at the pleasure of the testator.

A trust otherwise created can be revoked only—

(*a*) where all the beneficiaries are competent to contract—by their consent;

(*b*) where the trust has been declared by a non-testamentary instrument or by word of mouth—in exercise of a power of revocation expressly reserved to the author of the trust; or

(*c*) where the trust is for the payment of the debts of the author of the trust, and has not been communicated to the creditors—at the pleasure of the author of the trust.

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*Illustration.*

A conveys property to B in trust to sell the same and pay out of the proceeds the claim of A's creditors. A reserves no power of revocation. If no communication has been made to the creditors, A may revoke the trust. But if the creditors are parties to the arrangement, the trust cannot be revoked without their consent.

Revocation not to defeat what trustees have duly done.

**79.** No trust can be revoked by the author of the trust so as to defeat or prejudice what the trustees may have duly done in execution of the trust.

## CHAPTER IX.

### Of certain Obligations in the Nature of Trusts.

Where obligation in nature of trust is created.

**80.** An obligation in the nature of a trust is created in the following cases.

Where it does not appear that transferor intended to dispose of beneficial interest.

**81.** Where the owner of property transfers or bequeaths it, and it cannot be inferred consistently with the attendant circumstances that he intended to dispose of the beneficial interest therein, the transferee or legatee must hold such property for the benefit of the owner or his legal representative.

*Illustrations.*

(*a*). A conveys land to B without consideration and declares no trust of any part. It cannot, consistently with the circumstances under which the transfer is made, be inferred that A intended to transfer the beneficial interest in the land. B holds the land for the benefit of A.

(*b*). A conveys to B two fields, Y and Z, and declares a trust of Y, but says nothing about Z. It cannot, consistently with the circumstances under which the transfer is made, be inferred that A intended to transfer the beneficial interest in Z. B holds Z for the benefit of A.

(*c*). A transfers certain stock belonging to him into the joint names of himself and B. It cannot, consistently with the circumstances under which the transfer is made, be inferred that A intended to transfer the beneficial interest in the stock during his life. A and B hold the stock for the benefit of A during his life.

(*d*). A makes a gift of certain land to his wife B. She takes the beneficial interest in the land free from any trust in favour of A, for it may be inferred from the circumstances that the gift was for B's benefit.

Transfer to one for consideration paid by another.

**82.** Where property is transferred to one person for a consideration paid or provided by another person, and it appears that such other person did not intend to pay or provide such consideration for the benefit of the transferee, the transferee must hold the property for the benefit of the person paying or providing the consideration.

Nothing in this section shall be deemed to affect the Code of Civil Procedure, Section 317, or Act No. XI of 1859 (*to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency*), Section 36.

Trust incapable of execution or executed without exhausting trust-property.

**83.** Where a trust is incapable of being executed, or where the trust is completely executed without exhausting the trust-property, the trustee, in the absence of a direction to the contrary, must hold the trust-property, or so much thereof as is unexhausted, for the benefit of the author of the trust or his legal representative.

*Illustrations.*

(*a*). A conveys certain land to B—

"upon trust," and no trust is declared; or

"upon trust to be thereafter declared," and no such declaration is ever made: or

upon trusts that are too vague to be executed; or

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upon trusts that become incapable of taking effect; or

"in trust for C," and C renounces his interest under the trust.

In each of these cases B holds the land for the benefit of A.

(*b*). A transfers Rs. 10,000 in the four per cents to B, in trust to pay the interest annually accruing due to C for her life. A dies. Then C dies. B holds the fund for the benefit of A's legal representative.

(*c*). A conveys land to B upon trust to sell it and apply one moiety of the proceeds for certain charitable purposes, and the other for the maintenance of the worship of an idol. B sells the land, but the charitable purposes wholly fail, and the maintenance of the worship does not exhaust the second moiety of the proceeds. B holds the first moiety and the part unapplied of the second moiety for the benefit of A or his legal representative.

(*d*). A bequeaths Rs. 10,000 to B, to be laid out in buying land to be conveyed for purposes which either wholly or partially fail to take effect. B holds for the benefit of A's legal representative the undisposed of interest in the money or land if purchased.

Transfer for illegal purpose.

**84.** Where the owner of property transfers it to another for an illegal purpose, and such purpose is not carried into execution, or the transferor is not as guilty as the transferee, or the effect of permitting the transferee to retain the property might be to defeat the provisions of any law, the transferee must hold the property for the benefit of the transferor.

Bequest for illegal purpose.

**85.** Where a testator bequeaths certain property upon trust, and the purpose of the trust appears on the face of the will to be unlawful, or during the testator's lifetime the legatee agrees with him to apply the property for an unlawful purpose, the legatee must hold the property for the benefit of the testator's legal representative.

Bequest of which revocation is prevented by coercion.

Where property is bequeathed, and the revocation of the bequest is prevented by coercion, the legatee must hold the property for the benefit of the testator's legal representative.

Transfer pursuant to rescindable contract.

**86.** Where property is transferred in pursuance of a contract which is liable to rescission, or induced by fraud or mistake, the transferee must, on receiving notice to that effect, hold the property for the benefit of the transferor, subject to repayment by the latter of the consideration actually paid.

Debtor becoming creditor's representative.

**87.** Where a debtor becomes the executor or other legal representative of his creditor, he must hold the debt for the benefit of the persons interested therein.

Advantage gained by fiduciary.

**88.** Where a trustee, executor, partner, agent, director of a company, legal adviser, or other person bound in a fiduciary character to protect the interests of another person, by availing himself of his character, gains for himself any pecuniary advantage, or where any person so bound enters into any dealings under circumstances in which his own interests are, or may be, adverse to those of such other person and thereby gains for himself a pecuniary advantage, he must hold for the benefit of such other person the advantage so gained.

*Illustrations.*

(*a*). A, an executor, buys at an undervalue from B, a legatee, his claim under the will. B is ignorant of the value of the bequest. A must hold for the benefit of B the difference between the price and value.

(*b*). A, a trustee, uses the trust-property for the purpose of his own business. A holds for the benefit of his beneficiary the profits arising from such user.

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(c). A, a trustee, retires from his trust in consideration of his successor paying him a sum of money. A holds such money for the benefit of his beneficiary.

(d). A, a partner, buys land in his own name with funds belonging to the partnership. A holds such land for the benefit of the partnership.

(e). A, a partner, employed on behalf of himself and his co-partners in negotiating the terms of a lease, clandestinely stipulates with the lessor for payment to himself of a lakh of rupees. A holds the lakh for the partnership.

(f). A and B are partners. A dies. B, instead of winding up the affairs of the partnership retains all the assets in the business. B must account to A's legal representative for the profits arising from A's share of the capital.

(g). A, an agent employed to obtain a lease for B, obtains the lease for himself. A holds the lease for the benefit of B.

(h). A, a guardian, buys up for himself incumbrances on his ward B's estate at an undervalue. A holds for the benefit of B the incumbrances so bought, and can only charge him with what he has actually paid.

Advantage gained by exercise of undue influence.

**89.** Where, by the exercise of undue influence, any advantage is gained in derogation of the interests of another, the person gaining such advantage without consideration, or with notice that such influence has been exercised, must hold the advantage for the benefit of the person whose interests have been so prejudiced.

Advantage gained by qualified owner.

**90.** Where a tenant for life, co-owner, mortgagee, or other qualified owner of any property, by availing himself of his position as such, gains an advantage in derogation of the rights of the other persons interested in the property, or where any such owner, as representing all persons interested in such property, gains any advantage, he must hold, for the benefit of all persons so interested, the advantage so gained, but subject to repayment by such persons of their due share of the expenses properly incurred, and to an indemnity by the same persons against liabilities properly contracted, in gaining such advantage.

*Illustrations.*

(a). A, the tenant for life of leasehold property, renews the lease in his own name and for his own benefit. A holds the renewed lease for the benefit of all those interested in the old lease.

(b). A village belongs to a Hindu family. A, one of its members, pays nazrana to Government, and thereby procures his name to be entered as the inamdar of the village. A holds the village for the benefit of himself and the other members.

(c). A mortgages land to B, who enters into possession. B allows the Government revenue to fall into arrear with a view to the land being put up for sale and his becoming himself the purchaser of it. The land is accordingly sold to B. Subject to the repayment of the amount due on the mortgage and of his expenses properly incurred as mortgagee, B holds the land for the benefit of A.

Property acquired with notice of existing contract.

**91.** Where a person acquires property with notice that another person has entered into an existing contract affecting that property, of which specific performance could be enforced, the former must hold the property for the benefit of the latter to the extent necessary to give effect to the contract.

Purchase by person contracting to buy property to be held on trust.

**92.** Where a person contracts to buy property to be held on trust for certain beneficiaries, and buys the property accordingly, he must hold the property for their benefit to the extent necessary to give effect to the contract.

Advantage secretly gained by one of several compounding creditors.

**93.** Where creditors compound the debts due to them, and one of such creditors, by a secret arrangement with the debtor, gains an undue advantage over his co-creditors, he must hold for the benefit of such creditors the advantage so gained.

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Constructive trusts in cases not expressly provided for.

**94.** In any case not coming within the scope of any of the preceding sections, where there is no trust, but the person having possession of property has not the whole beneficial interest therein, he must hold the property for the benefit of the persons having such interest, or the residue thereof (as the case may be), to the extent necessary to satisfy their just demands.

*Illustrations.*

(*a*). A, an executor, distributes the assets of his testator B to the legatees without having paid the whole of B's debts. The legatees hold for the benefit of B's creditors, to the extent necessary to satisfy their just demands, the assets so distributed.

(*b*). A by mistake assumes the character of a trustee for B, and under colour of the trust receives certain moneys. B may compel him to account for such moneys.

(*c*). A makes a gift of a lakh of rupees to B, reserving to himself, with B's assent, power to revoke at pleasure the gift as to Rs. 10,000. The gift is void as to Rs. 10,000, and B holds that sum for the benefit of A.

Obligor's duties, liabilities and disabilities.

**95.** The person holding property in accordance with any of the preceding sections of this chapter must, so far as may be, perform the same duties, and is subject, so far as may be, to the same liabilities and disabilities, as if he were a trustee of the property for the person for whose benefit he holds it:

Provided that (*a*) where he rightfully cultivates the property or employs it in trade or business, he is entitled to reasonable remuneration for his trouble, skill, and loss of time in such cultivation or employment; and (*b*) where he holds the property by virtue of a contract with the person for whose benefit he holds it, or with any one through whom such person claims, he may, without the permission of the Court, buy or become lessee or mortgagee of the property or any part thereof.

Saving of rights of *bonâ fide* purchasers.

**96.** Nothing contained in this chapter shall impair the rights of transferees in good faith for consideration, or create an obligation in evasion of any law for the time being in force.

## THE SCHEDULE.

STATUTE.

| Year and chapter. | Short title. | Extent of repeal. |
|---|---|---|
| 29 Car. II, c. 3 ... ... | The Statute of Frauds... ... | Sections 7, 8, 9, 10 and 11. |

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

| Number and year. | Short title. | Extent of repeal. |
|---|---|---|
| XXVIII of 1866 ... ... | The Trustees' and Mortgagees' Powers Act, 1866. | Sections 2, 3, 4, 5, 32, 33, 34, 35, 36, and 37. In Sections 39, and 43, the word "trustee" wherever it occurs; and in Section 43 the words "management or" and "the trust-property or." |
| I of 1877 ... ... ... | The Specific Relief Act, 1877. | In Section 12 the first illustration. |

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## ACT No. III of 1882.

(*Passed on the 19th January* 1882).

An Act to amend the law relating to Seditious Publications.

Preamble.

WHEREAS it is expedient to amend the law relating to Seditious Publications; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Seditious Publications Act, 1882."

Local extent. Commencement.

It extends to the whole of British India; and shall come into force at once.

Repeal of Acts.

2. Act No. IX of 1878 (*An Act for the better control of Publications in Oriental languages*) and Act No. XVI of 1878 (*An Act to amend Act No. IX of* 1878) are repealed.

Section inserted after Section 60, Act No. XIV of 1866.

3. After Section 60 of Act No. XIV of 1866 (*The Indian Post Office Act,* 1866), the following section shall be inserted, namely :

"60 A. Whenever any notification has been published under section nineteen of the Sea Customs Act 1878, in respect of any newspaper, book, pamphlet, placard, broadsheet, or other document, any officer of the postal department empowered in this behalf by the Governor-General in Council, by name or in virtue of his office, may search or cause search to be made for any copies of the same in the custody of that department, and shall deliver all such copies found to such officer as the Governor-General in Council may appoint in this behalf by name or in virtue of his office, and such copies may be disposed of in such manner as the Governor-General in Council may from time to time direct."

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## ACT No. VI of 1882

(*Passed on the 24th February* 1882).

An Act for the incorporation, regulation and winding-up of Trading Companies and other Associations.

Preamble.

WHEREAS it is expedient to amend the law relating to the incorporation, regulation, and winding-up of Trading Companies and other Associations; It is hereby enacted as follows :—

PRELIMINARY.

Short title.

1. This Act may be cited as "The Indian Companies Act, 1882."

Local extent.

it extends to the whole of British India :

Commencement.

it shall come into force on the first day of May 1882; and the time at which it comes into force is hereinafter referred to as the commencement of this Act.

Repeal of Act X of 1866.

2. On and from the commencement of this Act, the Indian Companies Act, 1866, shall be repealed. But such repeal shall not affect—

(*a*) the incorporation of any Company registered under the said Act or any Act thereby repealed;

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(*b*) any right or privilege acquired or liability incurred under the said Act or any Act thereby repealed ;

(*c*) Table B in the schedule annexed to Act No. XIX of 1857 or any part thereof, so far as the same applies to any Company existing at the time of the commencement of this Act.

And all references to the said Indian Companies Act, 1866, in Acts or Regulations passed before the commencement of this Act shall be read as if made to this Act, and all rules made, fees directed, resolutions passed and other things duly done under the same Act shall be deemed to be respectively made, directed, passed, and done under this Act ; and all Companies under the same Act shall be deemed to be Companies under this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"Insurance Company" means a Company that carries on the business of insurance either solely or in common with any other business or businesses ;

"Insurance Company" ;

"Court" means the principal civil Court of original jurisdiction in a district, and includes the High Court in the exercise of its ordinary original civil jurisdiction ;

"Court" ;

"District Court" means the principal civil Court of original jurisdiction in a district, but does not include the High Court in the exercise of its ordinary original civil jurisdiction.

"District Court" ;

Prohibition of partnerships exceeding certain number.

4. No Company, Association, or Partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a Company under this Act, or is formed in pursuance of an Act of Parliament or some other Act of the Governor-General in Council, or by royal charter or Letters Patent ; and no Company, Association, or Partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the Company, Association or Partnership, or by the individual members thereof, unless it is registered as a Company under this Act, or is formed in pursuance of some other Act or of Letters Patent.

Division of Act.

5. This Act is divided into nine Parts, relating to the following subject-matters :—

The first Part—to the constitution and incorporation of Companies and Associations under this Act ;

The second Part—to the distribution of the capital and liability of members of Companies and Associations under this Act ;

The third Part—to the management and administration of Companies and Associations under this Act ;

The fourth Part—to the winding-up of Companies and Associations under this Act ;

The fifth Part—to the registration-office ;

The sixth Part—to the application of this Act to Companies registered under Act No. XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations either with or without limited liability*

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*of the members thereof*), and Act No. VII of 1860 (*to enable Joint Stock Banking Companies to be formed on the principle of limited liability*), or either of them ;

The seventh Part—to Companies authorized to register under this Act;

The eighth Part—to the application of this Act to unregistered Companies ;

The ninth Part—to miscellaneous provisions.

## PART I.

### CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS UNDER THIS ACT.

*Memorandum of Association.*

Mode of forming Company.

**6.** Any seven or more persons associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requisitions of this Act in respect of registration, form an incorporated Company, with or without limited liability.

*Explanation.*—Foreigners are persons within the meaning of this section although the whole or any part of the business of the proposed Company is intended to be transacted out of British India.

Mode of limiting liability of members.

**7.** The liability of the members of a Company formed under this Act may, according to the memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them, or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the Company in the event of its being wound up.

Directors with unlimited liability.

Where a Company is formed as a limited Company, the liability of the directors or managers of such Company, or of the managing director, may, if so provided by the memorandum of association, be unlimited.

Memorandum of association of a Company limited by shares.

**8.** Where a Company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares, hereinafter referred to as a Company limited by shares, the memorandum of association shall contain the following things (that is to say) :—

(*a*) the name of the proposed Company with the addition of the word "limited" as the last word in such name ;

(*b*) the part of British India in which the registered office of the Company is proposed to be situate ;

(*c*) the objects for which the proposed Company is to be established ;

(*d*) a declaration that the liability of the members is limited ;

(*e*) the amount of capital with which the Company proposes to be registered divided into shares of a certain fixed amount :

Subject to the following regulations :—

(*f*) that no subscriber shall take less than one share ;

(*g*) that each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes.

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Memorandum of association of a Company limited by guarantee.

9. Where a Company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the Company in the event of the same being wound up (hereinafter referred to as a Company limited by guarantee), the memorandum of association shall contain the following things (that is to say) :—

(*a*) the name of the proposed Company, with the addition of the word "limited" as the last word in such name;

(*b*) the part of British India in which the registered office of the Company is proposed to be situate ;

(*c*) the objects for which the proposed Company is to be established ;

(*d*) a declaration that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and of the costs, charges, and expenses of winding up the Company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding a specified amount.

Memorandum of association of an unlimited Company.

10. Where a Company is formed on the principle of having no limit placed on the liability of its members (hereinafter referred to as an unlimited Company), the memorandum of association shall contain the following things (that is to say) :—

(*a*) the name of the proposed Company;

(*b*) the part of British India in which the registered office of the Company is proposed to be situate ;

(*c*) the objects for which the proposed Company is to be established.

Signature and effect of memorandum of association.

11. The memorandum of association shall be signed by each subscriber in the presence of, and be attested by, one witness at the least. It shall, when registered, bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto, and there were in the memorandum contained, on the part of himself, his heirs, executors, and administrators, a contract to observe all the conditions of such memorandum subject to the provisions of this Act.

Power of certain Companies to alter memorandum of association.

12. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized to do so by its regulations as originally framed, or as altered by special resolution in manner hereinafter mentioned, as to increase its capital, by the issue of new shares of such amount as it thinks expedient, or to consolidate and divide its capital into shares of larger amount than its existing shares, or to convert its paid up shares into stock ; but, save as aforesaid, and save as hereinafter provided, no alteration shall be made by any Company in the conditions contained in its memorandum of association.

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*Reduction of Capital and Shares.*

Power to Company to reduce capital.

13. Any Company limited by shares may, by special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed, or as altered by special resolution, as to reduce its capital; but no such resolution for reducing the capital of any Company shall come into operation until an order of the Court is registered by the Registrar of joint stock Companies, as is hereinafter mentioned.

*Explanation I.*—The word "capital" includes paid-up capital.

*Explanation II.*—The power to reduce capital conferred by this section includes a power to cancel any lost capital, or any capital unrepresented by available assets, or to pay off any capital which may be in excess of the wants of the Company; and paid up capital may be reduced either with or without extinguishing or reducing the liability (if any) remaining on the shares of the Company; and, to the extent to which such liability is not extinguished or reduced, it shall be deemed to be preserved, notwithstanding anything hereinafter contained.

Company to add "and reduced" to its name for a limited period.

14. The Company shall, after the date of the passing of any special resolution for reducing its capital, add to its name, until such date as the Court may fix, the words "and reduced" as the last words in its name, and those words shall, until such date, be deemed to be part of the name of the Company.

Company to apply to the Court for an order confirming reduction.

15. A Company which has passed a special resolution for reducing its capital may apply to the Court by petition for an order confirming the reduction, and, on the hearing of the petition, the Court, if satisfied that, with respect to every creditor of the Company who, under the provisions of this Act, is entitled to object to the reduction, either his consent to the reduction has been obtained, or his debt or claim has been discharged or has determined, or has been secured as hereinafter provided, may make an order confirming the reduction on such terms and subject to such conditions as it deems fit.

When the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction; and it shall not be necessary, before the presentation of any petition under this section, to add, and the Court may, if it thinks fit so to do, dispense with the addition of, the words "and reduced," as mentioned in section fourteen.

In any case that the Court thinks fit so to do, it may require the Company to publish, in such manner as the Court thinks fit, the reasons for the reduction or such other information regarding the same as the Court may think expedient with a view to give proper information to the public in relation to such reduction, and if the Court thinks fit, the cause which led thereto.

Creditors may object to reduction, and list of objecting creditors to be settled by Court.

16. Where a Company proposes to reduce its capital, every creditor of the Company who, at the date fixed by the Court, is entitled to any debt or claim which, if that date were the commencement of the winding-up of the Company, would be admissible in proof against the

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Company, shall be entitled to object to the proposed reduction, and to be entered in the list of creditors who are so entitled to object.

The Court shall settle a list of such creditors, and for that purpose shall ascertain as far as possible, without requiring an application from any creditor, the names of such creditors and the nature and amount of their debts or claims, and may publish notices fixing a certain day or days within which creditors of the Company who are not entered on the list are to claim to be so entered, or to be excluded from the right of objecting to the proposed reduction:

Provided that, when the reduction does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid-up capital, the creditors of the Company shall not, unless the Court otherwise directs, be entitled to object, or required to consent, to the reduction.

Court may dispense with consent of creditor on security being given for his debt.

17. Where a creditor whose name is entered on the list of creditors, and whose debt or claim is not discharged or determined, does not consent to the proposed reduction, the Court may (if it thinks fit) dispense with such consent on the Company securing the payment of the debt or claim of such creditor by setting apart and appropriating in such manner as the Court may direct a sum of such amount as is hereinafter mentioned (that is to say) :—

(*a*) If the full amount of the debt or claim of the creditor is admitted by the Company, or, though not admitted, is such as the Company are willing to set apart and appropriate, then the full amount of the debt or claim shall be set apart and appropriated.

(*b*) If the full amount of the debt or claim of the creditor is not admitted by the Company, and is not such as the Company are willing to set apart and appropriate, or if the amount is contingent or not ascertained, then the Court may, if it thinks fit, inquire into and adjudicate upon the validity of such debt or claim, and the amount for which the Company may be liable in respect thereof, in the same manner as if the Company were being wound up by the Court; and the amount fixed by the Court on such inquiry and adjudication shall be set apart and appropriated.

Order and minute to be registered.

18. The Registrar of joint stock Companies, upon the production to him of an order of the Court confirming the reduction of the capital of a Company, and the delivery to him of a copy of the order and of a minute (approved by the Court) showing, with respect to the capital of the Company as altered by the order, the amount of such capital, the number of shares in which it is to be divided, and the amount of each share, and the amount (if any) at the date of the registration of the minute proposed to be deemed to have been paid up on each share, shall register the order and minute; and, on the registration, the special resolution confirmed by the order so registered shall take effect.

Notice of such registration shall be published in such manner as the Court may direct.

The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to the reduction of capital have been complied with, and that the capital of the Company is such as is stated in the minute.

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Minute to form part of memorandum of association.

19. The minute, when registered, shall be deemed to be substituted for the corresponding part of the memorandum of association of the Company, and shall be of the same validity, and subject to the same alterations, as if it had been orginally contained in the memorandum of association ; and, subject as in this Act mentioned, no member of the Company, whether past or present, shall be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount which has been paid on such share and the amount of the share as fixed by the minute.

Saving of rights of creditors who are ignorant of proceedings.

20. If any creditor who is entitled in respect of any debt or claim to object to the reduction of the capital of a Company under this Act is, in consequence of his ignorance of the proceedings taken with a view to such reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and after such reduction the Company is unable, within the meaning of this Act, to pay to the creditor the amount of such debt or claim, every person who was a member of the Company at the date of the registration of the order and minute relating to the reduction of its capital shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the Company had commenced to be wound up on the day prior to such registration ;

and, on the Company being wound up, the Court, on the application of such creditor, and on proof that he was ignorant of the proceedings taken with a view to the reduction, or of their nature and effect with respect to his claim, may, if it thinks fit, settle a list of such contributories accordingly, and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding-up.

Nothing in this section shall affect the rights of the contributories of the Company among themselves.

Registered minute to be embodied in memorandum of association.

21. A minute, when registered, shall be embodied in every copy of the memorandum of association issued after its registration ; and, if any Company makes default in complying with the provisions of this section, it shall incur a penalty not exceeding ten rupees for each copy in respect of which such default is made ; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Penalty on concealment of name of creditor.

22. If any director, manager, or officer of the Company wilfully conceals the name of any creditor of the Company who is entitled to object to the proposed reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor of the Company, or if any director or manager of the Company abets, within the meaning of the Indian Penal Code, any such concealment or misrepresentation as aforesaid, every such director, manager, or officer shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Power to reduce capital by cancellation of unissued shares.

23. Any Company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as to reduce its capital by cancelling any shares which, at the date of passing

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such resolution, have not been taken or agreed to be taken by any persons; and the provisions as to reduction of capital contained in the other sections of this Act shall not apply to any reduction made in pursuance of this section.

*Sub-division of Shares.*

Shares may be divided into shares of smaller amount.

24. Any Company limited by shares may, by special resolution, so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed or as altered by special resolution, as, by sub-division of its existing shares or any of them, to divide its capital, or any part thereof, into shares of smaller amount than is fixed by its memorandum of association:

Provided that, in the sub-division of the existing shares, the proportion between the amount which is paid and the amount (if any) which is unpaid on each share of reduced amount shall be the same as it was in the case of the existing share or shares from which the share of reduced amount is derived.

Special resolution to be embodied in memorandum of association.

25. The statement of the number and amount of the shares into which the capital of the Company is divided, contained in every copy of the memorandum of association issued after the passing of any such special resolution, shall be in accordance with such resolution; and any Company which makes default in complying with the provisions of this section shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly or wilfully authorizes or permits such default shall incur the like penalty.

*Associations not for Profit.*

Special provisions as to associations formed for purposes not of gain.

26. Where any association which might be formed under this Act as a limited Company proves to the Local Government that it is formed for the purpose of promoting commerce, art, science, charity, or any other useful object, and that it is the intention of such association to apply the profits, if any, or other income of the association, in promoting its objects, and to prohibit the payment of any dividend to its members, the Local Government may by license under the hand of one of its Secretaries, direct such association to be registered with limited liability, without the addition of the word "limited" to its name; and such association may be registered accordingly, and upon registration shall enjoy all the privileges and be subject to the obligations by this Act imposed on limited Companies; with the exceptions that none of the provisions of this Act that require a limited Company to use the word "limited" as any part of its name, or to publish its name, or to send a list of its members, directors, or managers to the Registrar, shall apply to an association so registered.

The license by the Local Government may be granted upon such conditions and subject to such regulations as the Local Government thinks fit to impose; and such conditions and regulations shall be binding on the association, and may at the option of the Local Government be inserted in the memorandum and articles of association, or in both or one of such documents.

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*Calls upon Shares.*

Company may have some shares fully paid, and others not.

27. Nothing herein contained shall be deemed to prevent any Company under this Act, if authorized by its regulations as originally framed or as altered by special resolution, from doing any one or more of the following things, namely :—

(*a*) making arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid, and in the time of payment of such calls ;

(*b*) accepting from any member of the Company who assents thereto the whole or a part of the amount remaining unpaid on any share or shares held by him, either in discharge of the amount of a call payable in respect of any other share or shares held by him or without any call having been made ;

(*c*) paying dividend in proportion to the amount paid up on each share in cases where a larger amount is paid up on some shares than on others.

Manner in which shares are to be issued and held.

28. Every share in any Company shall be deemed and taken to have been issued and to be held subject to the payment of the whole amount thereof in cash, unless the same has been otherwise determined by a contract duly made in writing and filed with the Registrar of joint stock Companies at or before the issue of such shares.

*Transfer of Shares.*

Transfer may be registered at request of transferor.

29. A Company shall, on the application of the transferor of any share or interest in the Company, enter in its register of members the name of the transferee of such share or interest in the same manner and subject to the same conditions as if the application for such entry were made by the transferee.

*Share-warrants to Bearer.*

Warrant of limited shares fully paid up may be issued in name of bearer.

30. In the case of a Company limited by shares, the Company, if authorized so to do by its regulations as originally framed or as altered by special resolution, and subject to the provisions of such regulations, may with respect to any share which is fully paid up, or with respect to stock, issue under their common seal a warrant (hereinafter referred to as a share warrant) stating that the bearer thereof is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on such shares or stock.

Coupons.

Effect of share-warrant.

31. A share-warrant shall entitle the bearer thereof to the shares or stock specified therein ; and such shares or stock may be transferred by the delivery of the share-warrant.

Re-registration of bearer of a share-warrant in the register.

32. The bearer of a share-warrant shall, subject to the regulations of the Company, be entitled, on surrendering such warrant for cancellation, to have his name entered as a member in the register of members ; and the Company shall be responsible for any loss incurred by any person by reason of the Company entering in its register of members the name of any bearer of a share-warrant in respect of the shares or stock specified therein without the share-warrant being surrendered and cancelled.

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Regulations of the Company may make the bearer of a share-warrant a member.

33. The bearer of a share-warrant may, if the regulations of the Company so provide, be deemed to be a member of the Company within the meaning of this Act, either to the full extent or for such purposes as may be prescribed by the regulations:

Provided that the bearer of a share-warrant shall not be qualified in respect of the shares or stock specified in such warrant for being a director or manager of the Company in cases where such a qualification is prescribed by the regulations of the Company.

Entries in register where share-warrant issued.

34. On the issue of a share-warrant in respect of any share or stock, the Company shall strike out of its register of members the name of the member then entered therein as holding such share or stock, as if he had ceased to be a member, and shall enter in the register the following particulars:—

(*a*) the fact of the issue of the warrant;

(*b*) a statement of the shares or stock included in the warrant, distinguishing each share by its number;

(*c*) the date of the issue of the warrant.

Stamps on share-warrants.

35. There shall be charged on every share-warrant a stamp-duty of an amount equal to three times the amount of the *ad valorem* stamp-duty which would be chargeable on an instrument transferring the shares or stock specified in the warrant if the consideration for the transfer were the nominal value of such shares or stock.

Penalty for issuing share-warrant not duly stamped.

If a share-warrant is issued without being duly stamped, the Company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the Company, shall forfeit the sum of five hundred rupees.

*Change of Name.*

Power of Companies to change name.

36. Any Company under this Act, with the sanction of a special resolution of the Company passed in manner hereinafter mentioned, and with the approval of the Local Government testified in writing under the hand of one of the Secretaries to such Government, may change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company; and any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

*Explanation.*—The issue of the certificate of incorporation is necessary to complete the change of name.

*Articles of Association.*

Regulations to be prescribed by articles of association.

37. The memorandum of association may, in the case of a Company limited by shares, and shall, in the case of a Company limited by guarantee or unlimited, be accompanied, when registered, by articles of association signed by the subscribers to the memorandum of

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association, and prescribing such regulations for the Company as the subscribers to the memorandum of association deem expedient.

The articles shall be expressed in separate paragraphs, numbered consecutively. They may adopt all or any of the provisions contained in the table marked A in the first schedule hereto. They shall, in the case of a Company, whether limited by guarantee or unlimited, that has a capital divided into shares, state the amount of capital with which the Company purposes to be registered, and in the case of a Company, whether limited by guarantee or unlimited, that has not a capital divided into shares, state the number of members with which the Company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration.

In a Company limited by guarantee or unlimited, and having a capital divided into shares, each subscriber shall take one share at the least, and shall write opposite to his name in the memorandum of association the number of shares he takes.

Application of table A.

**38.** In the case of a Company limited by shares, if the memorandum of association is not accompanied by articles of association, or in so far as the articles do not exclude or modify the regulations contained in the table marked A in the first schedule hereto, the last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company, in the same manner and to the same extent as if they had been inserted in articles of association and the articles had been duly registered.

Signature and effect of articles of association.

**39.** The articles of association shall be printed, and shall be signed by each subscriber in the presence of, and be attested by, one witness at the least.

When registered, they shall bind the Company and the members thereof to the same extent as if each member had subscribed his name thereto and as if such articles contained a contract on the part of himself, his heirs, executors and administrators, to conform to all the regulations contained in such articles subject to the provisions of this Act.

All monies payable by any member to the Company in pursuance of the conditions and regulations of the Company, or any of such conditions or regulations, shall be deemed to be a debt due from such member to the Company.

*General Provisions.*

Registration of memorandum of association and articles of association with fees as in table B.

**40.** The memorandum of association, and the articles of association, if any, shall be delivered to the Registrar of joint stock Companies hereinafter mentioned, who shall retain and register the same. It is not his duty to require evidence as to whether the several subscribers to a memorandum of association so delivered are competent to contract.

There shall be paid to the Registrar by a Company having a capital divided into shares, in respect of the several matters mentioned in the table marked B in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General in Council may, from time to time direct, and by a Company not having a capital divided into shares, in respect of the several matters mentioned in the table marked

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C in the first schedule hereto, the several fees therein specified, or such smaller fees as the Governor-General in Council may from time to time direct.

All fees paid to the said Registrar in pursuance of this Act shall be accounted for to Government.

NOTE.—The Governor-General in Council is pleased to direct that the fee to be paid under Section 40 of the Indian Companies Act, 1882, and Table C, in the first Schedule to that Act, for the registration of an association not for profit as a company with limited liability under Section 26 of the said Act, shall, when the number of members is stated in the articles of association to exceed twenty or to be unlimited, be fifty rupees. (*Government of India No.* 3991, *dated* 20*th July* 1888, *Gazette of India of* 21*st idem, Part I, p.* 341).

Effect of registration.

41. Upon the registration of the memorandum of association, and of the articles of association in cases where articles of association are required by this Act or by the desire of the parties to be registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a limited Company that the Company is limited: the subscribers of the memorandum of association, together with such other persons as may from time to time become members of the Company, shall thereupon be a body corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated Company, and having perpetual succession and a common seal, but with such liability on the part of members to contribute to the assets of the Company, in the event of the same being wound up, as is hereinafter mentioned.

A certificate of the incorporation of any Company given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with.

Copies of memorandum and articles to be given to members.

42. A copy of the memorandum of association, having annexed thereto the articles of association, if any, shall be forwarded to every member, at his request, on payment of such sum not exceeding one rupee, as may be prescribed by the Company for each copy; and if any Company makes default in forwarding a copy of the memorandum of association and articles of association, if any, to a member in pursuance of this section, the Company so making default shall for each such offence incur a penalty not exceeding twenty rupees.

Prohibition against identity of name in Companies.

43. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive, except in a case where such subsisting Company is in the course of being dissolved, and testifies its consent in such manner as the Registrar requires.

If any Company, through inadvertence or otherwise, is, without such consent as aforesaid, registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first-mentioned Company may, with the sanction of the Registrar, change its name; and, upon such change being made, the Registrar shall enter the new name on the register in the place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case; but no such alteration of name shall affect any rights or obligations of the Company, or render defective any legal proceedings instituted or to be instituted by or against the Company: and

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any legal proceedings may be continued or commenced against the Company by its new name that might have been continued or commenced against the Company by its former name.

## PART II.

### Distribution of Capital and Liability of Members of Companies and Associations under this Act.

*Distribution of Capital.*

Nature of interest in Company.

**44.** The shares or other interest of any member in a Company under this Act shall be moveable property, capable of being transferred in manner provided by the regulations of the Company, and shall not be of the nature of real estate or immoveable property; and each share shall, in the case of a Company having a capital divided into shares, be distinguished by its appropriate number.

Definition of "member."

**45.** The subscribers of the memorandum of association of any Company under this Act shall be deemed to have agreed to become members of the Company whose memorandum they have subscribed, and upon the registration of the Company shall be entered as members on the register of members hereinafter mentioned; and every other person who has agreed with a Company under this Act to become a member of such Company, and whose name is entered on the register of members, shall be deemed to be a member of the Company.

Transfer by personal representative.

**46.** Any transfer of the share or other interest of a deceased member of a Company under this Act, made by his personal representative, shall, notwithstanding such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

Register of members.

**47.** Every Company under this Act shall cause to be kept in one or more books a register of its members, and there shall be entered therein the following particulars:—

(*a*) the names and addresses, and the occupations, if any, of the members of the Company, with the addition, in the case of a Company having a capital divided into shares, of a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;

(*b*) the date at which the name of any person was entered in the register as a member;

(*c*) the date at which any person ceased to be a member.

Where a share warrant has been issued under section thirty, until the warrant is surrendered, the particulars mentioned in section thirty-four shall be deemed to be the particulars which are required by this section to be entered in the register of members of a Company; and, on the surrender of a warrant, the date of such surrender shall be entered as if it were the date at which a person ceased to be a member.

Any Company acting in contravention of this section shall incur a penalty not exceeding fifty rupees for every day during which its default in complying with the provisions of this section continues, and every director or manager of the Company who knowingly and wilfully authorizes or permits such contravention shall incur the like penalty.

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Annual list of members.

48. Every Company under this Act and having a capital divided into shares shall make, once at least in every year, a list of all persons who, on the fourteenth day succeeding the day on which the ordinary general meeting, or, if there is more than one ordinary general meeting in each year, the first of such ordinary general meetings, is held, are members of the Company. Such list shall state the names, addresses, and occupations of all the members therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars:—

(*a*) the amount of the capital of the Company and the number of shares into which it is divided;

(*b*) the number of shares taken from the commencement of the Company up to the date of the summary;

(*c*) the amount of calls made on each share;

(*d*) the total amount of calls received;

(*e*) the total amount of calls unpaid;

(*f*) the total amount of shares forfeited;

(*g*) the names, addresses, and occupations of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them.

The above list and summary shall be contained in a separate part of the register, and shall be completed within seven days after such fourteenth day as is mentioned in this section; and a copy shall forthwith be forwarded to the Registrar of joint stock Companies.

Particulars to be contained in annual summary.

49. After the issue by the Company of a share-warrant, the annual summary required by section forty-eight shall contain the following particulars (namely):—the total amount of shares or stock for which share-warrants are outstanding at the date of the summary, and the total amount of share-warrants which have been issued and surrendered respectively since the last summary was made, and the number of shares or amount of stock comprised in each warrant.

Penalty on Company, &c., not keeping a proper register.

50. If any Company under this Act and having a capital divided into shares makes default in complying with the provisions of this Act with respect to forwarding such list of members or summary as is hereinbefore mentioned to the Registrar, such Company shall incur a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Company to give notice of consolidation or of conversion of capital into stock.

51. Every Company under this Act having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares, or converted any portion of its capital into stock, shall, within fifteen days of such consolidation, division, or conversion, give notice to the Registrar of joint stock Companies of the same, specifying the shares so consolidated, divided, or converted.

Effect of conversion of shares into stock.

52. Where any Company under this Act and having a capital divided into shares has converted any portion of its capital into stock and given notice of such conversion to the Registrar, all the provisions of this Act which are

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applicable to shares only shall cease as to so much of the capital as is converted into stock; and the register of members hereby required to be kept by the Company and the list of members to be forwarded to the Registrar shall show the amount of stock held by each member in the list, instead of the amount of shares and the particulars relating to shares hereinbefore required.

Entry of trusts on register.

**53.** No notice of any trust, express, implied, or constructive, shall be entered on the register or be receivable by the Registrar in the case of Companies under this Act and registered in British India.

Certificate of shares or stock.

**54.** A certificate under the common seal of the Company, specifying any shares or stock held by any member of a Company, shall be *primâ facie* evidence of the title of the member to the share or shares or stock therein specified.

Inspection of register.

**55.** The register of members, commencing from the date of the registration of the Company, shall be kept at the registered office of the Company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall, during business hours, but subject to such reasonable restrictions as the Company in general meeting may impose, so that not less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one rupee, or such less sum as the Company may prescribe, for each inspection.

Every such member or other person may require a copy of such register, or of any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of two annas for every hundred words required to be copied.

If such inspection or copy is refused, the Company shall incur for each refusal a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

Every director and manager of the Company who knowingly authorizes or permits such refusal shall incur the like penalty.

In addition to the above penalty any Judge of a High Court may by order compel an immediate inspection of the register.

Power to close register.

**56.** Any Company under this Act may, upon giving notice by advertisement in some newspaper circulating in the district in which the registered office of the Company is situate and in the local official Gazette, close the register of members for any time or times not exceeding in the whole thirty days in each year.

Notices of increase of capital and of members to be given to Registrar.

**57.** Where a Company has a capital divided into shares, whether such shares may or may not have been converted into stock, notice of any increase in such capital beyond the registered capital, and where a Company has not a capital divided into shars, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of capital, within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and in the case of an increase of members, within fifteen days from the time at which such increase of members has been resolved on or has taken place; and the Registrar shall forthwith record the amount of such increase of capital or members.

If such notice is not given within the period aforesaid, the Company in default shall incur a penalty not exceeding one hundred rupees for every day

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during which such neglect to give notice continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Remedy for improper entry or omission of entry in register.

58. If the name of any person is fraudulently or without sufficient cause entered in, or omitted from, the register of members kept by any Company under this Act, or if default is made, or unnecessary delay takes place, in entering on the register the fact of any person having ceased to be a member of the Company, the person or member aggrieved, or any member of the Company, or the Company itself, may, by application to the principal Court of original civil jurisdiction in the district or place in which the registered office of the Company is situate, apply for an order of the Court that the register may be rectified; and the Court may either refuse such application with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the register, and may direct the Company to pay all the costs of such application, and any damages the party aggrieved may have sustained.

The Court may in any proceeding under this section decide any question relating to the title of any person who is a party to such proceeding to have his name entered in, or omitted from, the register, whether such question arises between two or more members or alleged members, or between any members or alleged members and the Company, and whether there has or has not been default on the part of the Company; and generally the Court may, in any such proceeding, decide any question that it may be necessary or expedient to decide for the rectification of the register: Provided that the Court may direct an issue to be tried in which any question of law may be raised; and an appeal in the manner directed by the Code of Civil Procedure shall lie.

Notice to Registrar of rectification of register.

59. Whenever any order has been made for rectifying the register in the case of a Company hereby required to send a list of its members to the Registrar, the Court shall, by its order, direct that due notice of such rectification be given to the Registrar.

Register to be evidence.

60. The register of members shall be *primâ facie* evidence of any matters by this Act directed or authorized to be inserted therein.

*Liability of Members.*

Liability of present and past members of Company.

61. In the event of a Company formed under this Act being wound up, every present and past member of such Company shall be liable to contribute to the assets of the Company to an amount sufficient for payment of the debts and liabilities of the Company, and the costs, charges, and expenses of the winding-up, and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following, (that is to say):—

(*a*) No past member shall be liable to contribute to the assets of the Company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding-up:

(*b*) No past member shall be liable to contribute in respect of any debt or liability of the Company contracted after the time at which he ceased to be a member:

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(c) No past member shall be liable to contribute to the assets of the Company unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Act:

(d) In the case of a Company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member:

(e) In the case of a Company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association:

(f) Nothing in this Act contained shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the Company are alone made liable in respect of such policy or contract:

(g) No sum due to any member of a Company in his character of a member, by way of dividends, profits or otherwise, shall be deemed to be a debt of the Company payable to such member in a case of competition between himself and any other creditor not being a member of the Company; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

*Explanation I.*—The liability of past members is a liability to contribute to the general assets of the Company, against which assets creditors (at whatever time their debts may have been contracted) have equal rights.

*Explanation II.*—In estimating the debts to which a past member is liable, all dividends paid on these debts under the winding-up must be deducted.

Liability of director whose liability is unlimited.

**62.** With respect to the contributions to be required in the event of the winding-up of a limited Company from any director or manager whose liability is unlimited, the following modifications shall be made in the last preceding section:—

(a) Subject to the provisions hereinafter contained, any such director or manager, whether past or present, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to contribute as if he were at the date of the commencement of such winding-up a member of an unlimited Company:

(b) No contribution required from any past director or manager who has ceased to hold such office for a period of one year or upwards prior to the commencement of the winding-up shall exceed the amount (if any) which he is liable to coutribute as an ordinary member of the Company:

(c) No contribution required from any past director or manager in respect of any debt or liability of the Company contracted after the time at which he ceased to hold such office shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the Company:

(d) Subject to the provisions contained in the regulations of the Company, no contribution required from any director or manager shall exceed the amount (if any) which he is liable to contribute as an ordinary member, unless the Court thinks it necessary to require such contribution in order to satisfy the debts and liabilities of the Company, or the costs charges, and expenses of the winding-up.

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## PART III.

### Management and Administration of Companies and Associations under this Act.

*Provisions for Protection of Creditors.*

Registered office of Company.

63. Every Company under this Act shall have a registered office to which all communications and notices may be addressed. If any Company under this Act carries on business without having such an office, it shall incur a penalty not exceeding fifty rupees for every day during which business is so carried an.

Notice of situation of registered office.

64. Notice of the situation of such registered office and of any change therein shall be given to the Registrar and recorded by him. Until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered office.

Publication of name by a limited Company.

65. Every limited Company under this Act, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible, in the English language, and also, if the registered office be situate in a district beyond the local limits of the ordinary original civil jurisdiction of a High Court, in one of the vernacular languages used in such district, and shall have its name engraven in legible characters in such language or languages on its seal, and shall have its name mentioned in legible characters in such language or languages in all notices, advertisements, and other official publications of such Company, and in all bills of exch ange, hundis, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts, and letters of credit of the Company.

Penalties on non-publication of name.

66. If any limited Company under this Act does not paint or affix, and keep painted or affixed, its name in manner directed by this Act, it shall be liable to a penalty not exceeding fifty rupees for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed.

Every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to the like penalty.

If any director, manager or officer of such Company, or any person on its behalf, uses or authorizes the use of any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement, or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company any bill of exchange, hundi, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt, or letter of credit of the Company wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of one thousand rupees, and shall further be personally liable to the holder of any such bill of exchange, hundi, promissory note, cheque, or order for money or goods for the amount thereof, unless the same is duly paid by the Company.

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*Contracts.*

Contracts how made.

67. Contracts on behalf of any Company under this Act may be made as follows (that is to say):—

(*a*) Any contract, which if made between private persons would be by law required to be in writing, and, if made according to English law, to be under seal, may be made on behalf of the Company in writing under the common seal of the Company; and such contract may be in the same manner varied or discharged:

(*b*) Any contract, which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company; and such contract may in the same manner be varied or discharged:

(*c*) Any contract, which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the Company by any person acting under the express or implied authority of the Company; and such contract may in the same way be varied or discharged. And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors, or administrators, as the case may be.

Register of mortgages.

68. Every limited Company under this Act shall keep a register of all mortgages and charges specifically affecting property of the Company, and shall enter in such register, in respect of each mortgage or charge, a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge.

If any property of the Company is mortgaged or charged without such entry as aforesaid being made, every director, manager, or other officer of the Company who knowingly and wilfully authorizes or permits the omission of such entry shall incur a penalty not exceeding five hundred rupees.

The register of mortgages required by this section shall be open to inspection by any creditor or member of the Company at all reasonable times. If such inspection is refused, any officer of the Company refusing the same, and every director and manager of the Company authorizing or knowingly and wilfully permitting such refusal, shall incur a penalty not exceeding fifty rupees, and a further penalty not exceeding twenty rupees for every day during which such refusal continues.

The High Court or any Judge thereof may by order compel the performance of the duty imposed by this section on a limited Company, and in addition to the above penalty may by order compel an immediate inspection of the register.

*Explanation.*—Omission to register under this section a mortgage or charge does not render the same invalid. But the officers of the Company cannot avail themselves as such of a mortgage or charge specifically affecting property of the Company and not so registered.

Certain Companies to publish statement entered in schedule.

69. Every limited banking Company, and every insurance Company, and deposit, provident or benefit Society under this Act, shall, before it commences business, and also on the first Monday in February and the first

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Monday in August in every year during which it carries on business, make a statement in the form marked D in the first schedule hereto, or as near thereto as circumstances will admit; and a copy of such statement shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on.

If default is made in compliance with the provisions of this section, the Company shall be liable to a penalty not exceeding fifty rupees for every day during which such default continues; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Every member and every creditor for any Company mentioned in this section shall be entitled to a copy of the above-mentioned statement on payment of a sum not exceeding eight annas.

List of directors to be sent to Registrar.

70. Every Company under this Act and not having a capital divided into shares shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers, and shall send to the Registrar of joint stock Companies a copy of such register, and shall from time to time notify to the Registrar any change that takes place in such directors or managers.

Penalty on Company not keeping register of directors.

71. If any Company under this Act not having a capital divided into shares makes default in keeping a register of its directors or managers, or in sending a copy of such register to the Registrar in compliance with the foregoing rules, or in notifying to the Registrar any change that takes place in such directors or managers, such delinquent Company shall incur a penalty not exceeding one hundred rupees for every day during which such default continues; and every director or manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty

Promissory notes, bills of exchange, and hundis.

72. A promissory note, bill of exchange, or hundi, shall be deemed to have been made, drawn, accepted, or endorsed on behalf of any Company under this Act, if made, drawn, accepted, or endorsed in the name of the Company by any person acting under the authority of the Company, or if made, drawn, accepted, or endorsed by or on behalf or on account of the Company by any person acting under the authority of the Company.

Prohibition against carrying on business with less than seven members.

73. If any Company under this Act carries on business when the number of its members is less than seven, for a period of six months after the number has been so reduced, every person who is a member of such Company during the time that it so carries on business after such period of six months, and is cognizant of the fact that it is so carrying on business with fewer than seven members, shall be severally liable for the payment of the whole debt of the Company contracted during such time, and may be sued for the same without the joinder in the suit of any other member.

*Provisions for Protection of Members.*

General meeting of Company.

74. A general meeting of every Company under this Act shall be held once at the least in every year.

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A balance-sheet shall be made out and filed with the Registrar of joint stock Companies, within twelve months after the Company has been registered, and once at least in every year afterwards within twelve months from the filing of the balance-sheet immediately preceding; and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to table A in the first schedule hereto, or as near thereto as circumstances admit.

Balance-sheet.

And once at the least in every year the accounts of the Company shall be examined and the correctness of the last balance-sheet and its conformity with the law ascertained and certified by one or more auditor or auditors.

Audit.

No balance-sheet shall be filed with the Registrar unless and until its correctness and conformity with the law have been so ascertained and certified, and it has been laid before and adopted by the Company in general meeting.

If default is made in compliance with any of the provisions of this section, every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall be liable to a penalty of one thousand rupees.

*Meetings.*

75. Every Company formed under this Act after the commencement of this Act shall hold a general meeting within six months after its memorandum of association is registered; and, if such meeting is not held, the Company shall be liable to a penalty not exceeding fifty rupees a day for every day after the expiration of such four months, until the meeting is held; and every director or manager of the Company and every subscriber of the memorandum of association who knowingly authorizes or permits such default shall be liable to the same penalty.

Company to hold meeting within six months after registration.

76. Subject to the provisions of this Act and to the conditions contained in the memorandum of association, any Company formed under this Act or the Indian Companies Act, 1866, may, in general meeting, from time to time, by passing a special resolution in manner hereinafter mentioned, alter all or any of the regulations of the Company contained in the articles of association, or in the table marked A in the first schedule, where such table is applicable to the Company, or make new regulations to the exclusion of or in addition to all or any of the regulations of the Company.

Power to alter regulations by special resolution.

Any regulations so made by special resolution shall be deemed to be regulations of the Company of the same validity as if they had been originally contained in the articles of association, and shall be subject in like manner to be altered or modified by any subsequent special resolution.

Any limited Company formed under this Act or the Indian Companies Act, 1866, may by a special resolution, if authorized to do so by its regulations as originally framed or as altered by special resolution, from time to time modify the conditions contained in its memorandum of association so far as to render unlimited, from and after the date of such resolution, the liability of its directors or managers, or of the managing directors. Such special

Power to make liability of directors unlimited.

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resolution shall be of the same validity as if it had been originally contained in the memorandum of association, and a copy thereof shall be embodied in or annexed to every copy of the memorandum of association which is issued after the passing of the resolution.

Definition of "special resolution."

77. A resolution passed by a Company under this Act shall be deemed to be special whenever a resolution has been passed by a majority of not less than three-fourths of such members of the Company for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy (in cases where by the regulations of the Company proxies are allowed) at any general meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such members for the time being entitled, according to the regulations of the Company, to vote, as may be present in person or by proxy at a subsequent general meeting, of which notice has been duly given, and held at an interval of not less than fourteen days, nor more than one month, from the date of the meeting at which such resolution was first passed.

At any meeting mentioned in this section, unless a poll is demanded by at least five members, a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against the same.

Notice of any meeting shall, for the purposes of this section, be deemed to be duly given, and the meeting to be duly held whenever such notice is given and meeting held in manner prescribed by the regulations of the Company.

In computing the majority under this section when a poll is demanded, reference shall be had to the number of votes to which each member is entitled by the regulations of the Company.

Provision where no regulations as to meetings.

78. In default of any regulations as to voting, every member shall have one vote, and, in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the table marked A in the first schedule hereto.

In default of any regulations as to the persons to summon meetings, five members shall be competent to summon the same, and in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.

Registration of special resolutions.

79. A copy of every special resolution that is passed by any Company under this Act shall be printed and forwarded to the Registrar of joint stock Companies and be recorded by him.

If such copy is not so forwarded within fifteen days from the date of the confirmation of the resolution, the Company shall incur a penalty not exceeding twenty rupees for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

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Copies of special resolutions to be embodied in articles of association.

**80.** Where articles of association have been registered, a copy of every special resolution for the time being in force shall be annexed to or embodied in every copy of the articles of association that may be issued after the passing of such resolution. Where no articles of association have been registered, a copy of every special resolution shall be forwarded in print to any member requesting the same on payment of one rupee or such less sum as the Company may direct.

If any Company makes default in complying with the provisions of this section or section seventy-six, it shall incur a penalty not exceeding twenty rupees for each copy in respect of which such default is made; and every director and manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty.

Execution of deeds abroad.

**81.** Any Company under this Act may, by instrument in writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in British India; and every deed signed by such attorney on behalf of the Company and under his seal shall be binding on the Company and have the same effect as if it were under the common seal of the Company.

Examination of affairs of Company by inspectors.

**82.** The Local Government may appoint one or more competent inspectors to examine into the affairs of any Company under this Act, and to report thereon in such manner as the Local Government may direct upon the applications following (that is to say) :—

(*a*) In the case of a banking or any other Company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the Company for the time being issued:

(*b*) In the case of any Company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the register of the Company as members.

Application for inspection to be supported by evidence.

**83.** The application shall be supported by such evidence as the Local Government may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same.

The Local Government may also require the applicants to give security for payment of the costs of the inquiry before appointing any inspector or inspectors.

Inspection of books.

**84.** It shall be the duty of all officers and agents of the Company to produce for the examination of the inspectors all books and documents in their custody or power.

Any inspector may examine upon oath the officers and agents of the Company in relation to its business.

If any such officer or agent refuses to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding one hundred rupees in respect of each such offence.

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Result of examination how dealt with.

85. Upon the conclusion of the examination, the inspectors shall report their opinions to the Local Government. Such report shall be written or printed as the Local Government directs.

A copy shall be forwarded by the Local Government to the registered office of the Company, and a further copy shall, at the request of the members upon whose application the inspection was made, be delivered to them or to any one or more of them.

All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the inspectors were appointed, unless the Local Government shall direct the same to be paid out of the assets of the Company, which the Local Government is hereby authorized to do.

Power of Company to appoint inspectors.

86. Any Company under this Act may, by a special resolution, appoint inspectors for the purpose of examining into the affairs of the Company.

The inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Local Government, with this exception, that, instead of making their report to the Local Government, they shall make the same in such manner and to such persons as the Company in general meeting directs.

The officers and agents of the Company shall incur the same penalties in case of any refusal to produce any book or document hereby required to be produced to such inspectors, or to answer any question, as they would have incurred if such inspectors had been appointed by the Local Government.

Report of inspectors to be evidence.

87. A copy of the report of any inspectors appointed under this Act authenticated by the seal of the Company into whose affairs they have made inspection, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in such report.

Prospectus, &c., to specify dates and names of parties to certain prior contracts.

88. Every prospectus of a Company, and every notice inviting persons to subscribe for shares in any joint stock Company, shall specify the dates and the names of the parties to any agreement enforceable by law which has been entered into by the Company, or the promoters, directors, or trustees thereof, before the issue of such prospectus or notice (whether subject to adoption by the directors, or the Company, or otherwise), and which might reasonably influence a person in determining whether he would or would not become a shareholder in the Company; and any prospectus or notice not specifying the same shall be deemed fraudulent on the part of the promoters, directors, and officers of the Company knowingly issuing the same, as regards any person taking shares in the Company on the faith of such prospectus, unless he has had notice of such contract.

*Notices.*

Service of notices on Company.

89. Any summons, notice, order, or other document required to be served upon the Company may be served by leaving the same, or sending it through the post by a registered letter addressed to the Company, at their registered office; and any notice to the Registrar of joint stock Com-

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panies may be served by sending it to him through the post by a registered letter, or by delivering it to him or by leaving it for him at his office.

Rules as to notices by letter.

90. Every document to be served by post on the Company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period (if any) prescribed for the service thereof; and in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a registered letter into the post office.

Authentication of notices by Company.

91. Any summons, notice, order, or proceeding requiring authentication by the Company may be signed by any director, secretary, or other authorized officer of the Company, and need not be under the common seal of the Company; and the same may be in writing or in print, or partly in writing and partly in print.

*Legal Proceedings.*

Evidence of proceedings at meetings.

92. Every Company under this Act shall cause minutes of all resolutions and proceedings of general meetings of the Company, and of the directors or managers of the Company in cases where there are directors or managers, to be duly entered in books to be from time to time provided for the purpose; and any such minute as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting, shall be received as evidence in all legal proceedings.

Until the contrary is proved, every general meeting of the Company or meeting of directors or managers in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly held and convened and all resolutions passed thereat or proceedings had to have been duly passed and had, and all appointments of directors, managers, or liquidators shall be deemed to be valid, and all acts done by such directors, managers, or liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

*Explanation.*—Nothing in this section shall be deemed to give validity to acts done by a liquidator after his appointment has been shown to be invalid.

Provision as to costs in suits brought by certain limited Companies.

93. Where a limited Company is plaintiff in any suit, if it appears from the evidence adduced that there is reason to believe that, if the defendant be successful in his defence, the assets of the Company will be insufficient to pay his costs, any Judge having jurisdiction in the matter may require sufficient security to be given for such costs, and may stay all proceedings until such security is given.

Plaint in suits against members.

94. In any suit brought by the Company against any member to recover any call or other monies due from such member in his character of member, it shall be sufficient to allege that the defendant is a member of the Company and is indebted to the Company in respect of a call made or other monies due whereby a suit has accrued to the Company.

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*Alteration of Forms.*

Forms to be used.

95. The forms set forth in the second schedule hereto, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer.

Governor-General in Council may alter forms.

The Governor-General in Council may, from time to time, make such alterations in the tables and forms contained in the first schedule hereto, so that he does not increas the amount of fees payable to the Registrar in the said schedule mentioned, and in the forms in the second schedule, or make such additions to the last-mentioned forms as he deems requisite.

Any such table or form, when altered, shall be published in the *Gazette of India*, and, upon such publication being made, such table or form shall have the same force as if it were included in the schedule to this Act; but no alteration made by the Governor-General in Council in the table marked A contained in the first schedule shall affect any Company registered prior to the date of such alteration, or repeal, as respects such Company, any portion of such table.

*Arbitrations.*

Power for Companies to refer matters to arbitration.

96. Any Company under this Act may, from time to time, by writing under its common seal, agree to refer, and may refer, to arbitration any matter whatsoever in dispute between itself and any other Company or person; and the Companies, parties to the arbitration, may delegate to the person or persons, to whom the reference is made, power to settle any terms or to determine any matter capable of being lawfully settled or determined by the Companies themselves, or by the directors or other managing body of such Companies.

Power to alter or revoke agreements for reference.

97. The Companies jointly, but not otherwise, from time to time, by writing under their respective common seals, may add to, alter, or revoke any agreement for reference in accordance with this Act theretofore entered into between the Companies, or any of the terms, conditions, or stipulations thereof.

Agreements to be carried into effect.

98. Every reference or agreement in accordance with this Act, except so far as it is from time to time revoked or modified in accordance with this Act, shall bind the Companies, and may and shall be carried into full effect.

Reference to arbitrator.

99. Where the Companies agree, the reference shall be made to a single arbitrator.

Reference to two or more arbitrators.

100. Except where the Companies agree that the reference shall be made to a single arbitrator, the reference shall be made as follows, to wit:—

where there are two Companies, the reference shall be made to two arbitrators;

where there are three or more Companies, the reference shall be made to so many arbitrators as there are Companies.

Appointment of arbitrators by Companies.

101. Where there are to be two or more arbitrators, every Company shall, by writing under their common seal, appoint one of the arbitrators, and shall give notice in writing thereof to the other Company or Companies.

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Appointment of arbitrators by Local Government.

102. Where there are to be two or more arbitrators, if any of the Companies fail to appoint an arbitrator within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government, instead of the Company so failing to appoint an arbitrator, may appoint an arbitrator. The arbitrator so appointed shall, for the purposes of this Act, be deemed to be appointed by the Company so failing.

Appointment of arbitrators by Companies to supply vacancies.

103. Where the reference is made to two or more arbitrators, if before the matters referred to them are determined any arbitrator dies, or becomes incapable or unfit, or for seven consecutive days fails to act as arbitrator, the Company by which he was appointed shall by writing under their common seal appoint an arbitrator in his place.

Appointment of arbitrators by Local Government to supply vacancies.

104. Where the Company by which an arbitrator ought to be appointed in the place of the arbitrator so deceased, incapable, unfit, or failing to act, fails to make the appointment within fourteen days after being thereunto requested in writing by the other Company, or by the other Companies or any of them, then, on the application of the Companies or any of them, the Local Government may appoint an arbitrator.

The arbitrator so appointed shall for the purposes of this Act be deemed to be appointed by the Company so failing.

Appointment of arbitrator not revocable.

105. When any appointment of an arbitrator is made, the Company making the appointment shall have no power to revoke the same without the previous consent in writing of the other Company or every other Company in writing under their common seal.

Appointment of umpire by arbitrators.

106. Where two or more arbitrators are appointed, they shall, before entering on the business of the reference, appoint by writing under their hands an impartial and qualified person to be their umpire.

Appointment of umpire by Local Government.

107. If the arbitrators do not appoint an umpire within seven days after the reference is made to the arbitrators, then, on the application of the Companies or any of them, the Local Government may appoint an umpire; and the umpires so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators.

Appointment of umpire by arbitrators to supply vacancy.

108. Where two or more arbitrators are appointed, if before the matters referred to them are determined their umpire dies, or becomes incapable, or unfit, or for seven consecutive days fails to act as umpire, the arbitrators shall by writing under their hands appoint an impartial and qualified person to be their umpire in his place.

Appointment of umpire by Local Government to supply vacancy.

109. If the arbitrators fail to appoint an umpire within seven days after notice in writing to them of the decease, incapacity, unfitness, or failure to act of their umpire, then, on the application of the Companies or any of them, the Local Government may appoint an umpire.

The umpire so appointed shall for the purposes of this Act be deemed to be appointed by the arbitrators so failing.

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Succeeding arbitrators and umpires to have power of predecessors.

110. Every arbitrator appointed in the place of a preceding arbitrator, and every umpire appointed in the place of a preceding umpire, shall respectively have the like powers and authorities as his respective predecessor.

Reference to umpire.

111. Where there are two or more arbitrators, if they do not within such a time as the Companies agree on, or, failing such agreement, within thirty days next after the reference is made to the arbitrators, agree on their award thereon, then the matters referred to them, or such of those matters as are not then determined, shall stand referred to their umpire.

Power for arbitrators, &c., to call for books, &c., and examine witnesses on oath.

112. The arbitrator, and the arbitrators, and the umpire respectively may call for the production of any documents or evidence in the possession or power of the Companies respectively, or which they respectively can produce, and which the arbitrator, or the arbitrators, or the umpire shall think necessary for determining the matters referred, and may examine the witnesses of the Companies respectively on oath.

Procedure in the arbitration.

113. Except where and as the Companies otherwise agree, the arbitrator, and the arbitrators and the umpire respectively may proceed in the business of the reference in such manner as he and they respectively shall think fit.

Arbitration may proceed in absence of Companies.

114. The arbitrator, and the arbitrators and the umpire respectively may proceed in the absence of all or any of the Companies in every case in which, after giving notice in that behalf to the Companies respectively, the arbitrator, the arbitrators, or the umpire shall think fit so to proceed.

Several awards may be made.

115. The arbitrator, and the arbitrators, and the umpire respectively may, if he and they respectively think fit, make several awards, each on part of the matters referred, instead of one award on all the matters referred.

Every such award on part of the matters shall for such time as shall be stated in the award, the same being such as shall have been specified in the agreement for arbitration, or, in the event of no time having been so specified, for any time which the arbitrator may be legally entitled to fix, be binding as to all the matters to which it extends, and as if the matters awarded on were all the matters referred, and that notwithstanding the other matters or any of them be not then or thereafter awarded on.

Awards made in due time to bind all parties.

116. The award of the arbitrator, or of the arbitrators, or of the umpire, if made in writing under his or their respective hand or hands and ready to be delivered to the Companies within such a time as the Companies agree on, or failing such agreement within thirty days next after the matters in difference are referred to (as the case may be) the arbitrator, or the arbitrators, or the umpire, shall be binding and conclusive on all the Companies.

Power for umpire to extend period for making his award.

117. Provided always that (except where and as the Companies otherwise agree) the umpire, from time to time by writing under his hand, may extend the period within which his award is to be made. If it be made and ready to be delivered within the extended time, it shall be as valid and effectual as if made within the prescribed period.

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Awards not to be set aside for informality.

118. No award made on any arbitration in accordance with this Act shall be set aside for any irregularity or informality.

Awards to be obeyed.

119. Except only so far as the Companies bound by any award in accordance with this Act from time to time otherwise agree, all things by every award in accordance with this Act lawfully required to be done, omitted, or suffered shall be done, omitted or suffered accordingly.

Agreements, arbitrations and awards to have effect.

120. Full effect shall be given by the Courts according to their respective jurisdictions, and by the Companies respectively, and otherwise, to all agreements, references, arbitrations, and awards in accordance with this Act; and the performance or observance thereof may, where the Courts think fit, be compelled by any process against the Companies respectively, or their respective property that the Courts or any Judge thereof shall direct, and where requisite frame, for the purpose.

Costs of arbitration and award.

121. Except where and as the Companies otherwise agree, the costs of and attending the arbitration and the award, shall be in the discretion of the arbitrator, and the arbitrators and the umpire respectively.

Payment of costs.

122. Except where and as the Companies otherwise agree, and if and so far as the award does not otherwise determine, the costs of and attending the arbitration and the award shall be borne and paid by the Companies in equal shares, and in other respects the Companies shall bear their own respective costs.

Submission to arbitration to be filed in Court.

123. On the application of any party interested, the submission to any such arbitration may be filed in the High Court, and an order of reference may be made thereon, with any directions the Court thinks fit; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

## PART IV.

### Winding-up of Companies and Associations under this Act.

*Preliminary.*

Meaning of "contributory."

124. The term "contributory" shall mean every person liable to contribute to the assets of a Company under this Act in the event of the same being wound up; it shall also, in all proceedings for determining the persons who are to be deemed contributories, and in all proceedings prior to the final determination of such persons, include any person alleged to be a contributory.

Nature of liability of contributory.

125 The liability of any person to contribute to the assets of a Company under this Act in the event of the same being wound up shall be deemed to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter mentioned for enforcing such liability; and it shall be lawful, in the case of the insolvency of any contributory, to prove against his estate the estimated value of his liability to future calls as well as calls already made.

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No claim founded on the liability of a contributory shall be cognizable by any Court of Small Causes situate outside the towns of Calcutta Madras, and Bombay.

Contributories in case of death.

126. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs, and devisees shall be liable in due course of administration to contribute to the assets of the Company in discharge of the liability of such deceased contributory; and such personal representatives, heirs, and devisees shall be deemed to be contributories accordingly.

Contributories in case of insolvency.

127. If any contributory becomes insolvent, either before or after he has been placed on the list of contributories, his assignees shall be deemed to represent such insolvent for all the purposes of the winding-up, and shall be deemed to be contributories accordingly, and may be called upon to admit to prove against the estate of such insolvent, or otherwise to allow to be paid out of his assets in due course of law, any monies due from such insolvent in respect of his liability to contribute to the assets of the Company being wound up.

*Winding-up by Court.*

Circumstances under which Company may be wound up by Court.

128. A Company under this Act may be wound up by the Court as hereinafter defined under the following circumstances (that is to say):—

(*a*) whenever the Company has passed a special resolution requiring the Company to be wound up by the Court;

(*b*) whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year;

(*c*) whenever the members are reduced in number to less than seven;

(*d*) whenever the Company is unable to pay its debts;

(*e*) whenever for any other reason of a like nature the Court is of opinion that it is just and equitable that the Company should be wound up.

Company when deemed unable to pay its debts.

129. A Company under this Act shall be deemed to be unable to pay its debts—

(*a*) whenever a creditor, by assignment or otherwise, to whom the Company is indebted in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at its registered office, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the reasonable satisfaction of the creditor;

(*b*) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company is returned unsatisfied in whole or in part;

(*c*) whenever it is proved to the satisfaction of the Court that the Company is unable to pay its debts.

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Definition of "the Court."

130. The expression "the Court" as used in this Part of this Act shall mean the principal Court having original civil jurisdiction in the place in which the registered office of the Company is situate, unless in the regulations for the management of the Company it shall be stipulated that the Company, if wound up, shall be wound up by the High Court of Judicature at Fort William, Madras, or Bombay (as the case may be), or by the Chief Court of the Punjab, in which case the word "Court" shall mean the said High Court or Chief Court (as the case may be) in the exercise of its original civil jurisdiction.

Definition of "debts."

The expression "debts" as used in this Part of this Act means debts actually due, of which the creditor could claim immediate payment, except in the case of a Company issuing or liable under policies of assurance upon human life within British India, or granting annuities upon human life within British India. In the case of such a Company (hereinafter called a life-assurance Company), the expression "debts," as so used, includes also contingent or prospective liability under policies and annuity and other existing contracts.

Application for winding-up to be made by petition.

131. Any application to the Court for the winding-up of a Company under this Act shall be by petition, which may be presented by the Company, or by any one or more creditor or creditors, contributory or contributories, of the Company, or by all or any of the above parties, together or separately.

The petition must allege facts which, if proved, will justify an order for winding-up the Company. Every order which may be made on any such petition shall operate in favor of all the creditors and all the contributories of the Company in the same manner as if it had been made upon the joint petition of a creditor and a contributory.

In the case of a life-assurance Company the Court shall not give a hearing to the petition until security for costs for such amount as the Judge thinks reasonable is given, and until a *primâ facie* case is also established to the satisfaction of the Judge; and where the Company has an uncalled capital of an amount sufficient, with the future premiums receivable by the Company, to make up the actual invested assets equal to the amount of the estimated liabilities, the Court shall suspend further proceedings on the petition for a reasonable time to enable the uncalled capital, or a sufficient part thereof, to be called up; and, if at the end of the original or any suspended time for which the proceedings have been suspended, such an amount has not been realised by means of calls as with the already invested assets is equal to the liabilities, an order shall be made on the petition as if the Company had been proved to be unable to pay its debts.

*Explanation.*—Nothing in this section authorizes the presentation of a petition by a member of a Company who is indebted to the Company in respect of a call made, or other moneys due.

Contributory when not qualified to present winding-up petition.

132. No contributory of a Company under this Act shall be capable of presenting a petition for winding-up such Company unless the members of the Company are reduced in number to less than seven, or unless the shares in respect of which he is a contributory, or some of them, either were originally alloted to him, or have been held by him, and registered in his name, for a period of at least six months during the eighteen months previous to the commencement of the winding-up, or have devolved upon him through the death of a former holder:

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Provided that, where a share has, during the whole or any part of the six months, been held by or registered in the name of the wife of a contributory either before or after her marriage, or by or in the name of any trustee for such wife, or for the contributory, such share shall, for the purposes of this section, be deemed to have been held by and registered in the name of the contributory.

Commencement of winding-up by Court.

133. A winding-up of a Company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up.

Court may grant injunction.

134. The Court may, at any time after the presentation of a petition for winding-up a Company under this Act, and before making an order for winding-up the Company, upon the application of the Company or of any creditor or contributory of the Company, restrain further proceedings in any suit or proceeding against the Company, upon such terms as the Court thinks fit.

The Court may also at any time after the presentation of such petition, and before the first appointment of liquidators, appoint provisionally an official liquidator of the estate and effects of the Company.

Course to be pursued by Court on hearing petition.

135. Upon hearing the petition, the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally, and may make any interim order or any other order that it deems just.

Suits to be stayed after order for winding-up.

136. When an order has been made for winding-up a Company under this Act, no suit or other proceeding shall be proceeded with or commenced against the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Copy of order to be forwarded to Registrar.

137. When an order has been made for winding-up a Company under this Act, a copy of such order shall forthwith be forwarded by the Company to the Registrar of joint stock Companies, who shall make a minute thereof in his books relating to the Company.

Such order shall be deemed to be notice of discharge to the servants of the Company, except when the business of the Company is continued.

Power of Court to stay proceedings.

138. Such Court may, at any time after an order has been made for winding-up a Company, upon the application of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

Effect of order on share-capital of Company limited by guarantee.

139. When an order has been made for winding-up a Company limited by guarantee, and having a capital divided into shares, any share-capital that may not have been called up shall be deemed to be assets of the Company and to be a debt due to the Company from each member to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the Court.

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Court may have regard to wishes of creditors or contributories.

140. The Court may, as to all matters relating to the winding-up, have regard to the wishes of creditors or contributories as proved to it by any sufficient evidence, and may, if it thinks fit, direct meetings of the creditors or contributories to be summoned, held, and conducted in such manner as the Court directs, for the purpose of ascertaining ther wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

In the case of creditors, regard is to be had to the value of the debts due to each creditor, and, in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

*Official Liquidators.*

Appointment of official liquidator.

141. For the purpose of conducting the proceedings in winding-up a Company and assisting the Court therein, there may be appointed a person or persons, to be called an official liquidator or official liquidators.

The Court may appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of official liquidator or official liquidators.

In all cases, if more persons than one are appointed to the office of official liquidator, the Court shall declare whether any act hereby required or authorized to be done by the official liquidator is to be done by all or any one or more of such persons.

The Court may also determine whether any, and what security is to be given by any official liquidator on his appointment.

If no official liquidator is appointed, or during any vacancy in such appointment, all the property of the Company shall be deemed to be in the custody of the Court.

A receiver shall not be appointed of assets in the hands of an official liquidator.

Resignations, removals, filling up vacancies, and compensation.

142. Any official liquidator may resign or be removed by the Court on due cause shown. Any vacancy in the office of an official liquidator appointed by the Court shall be filled up by the Court. There shall be paid to the official liquidator such salary or remuneration, by way of percentage or otherwise, as the Court may direct; and if more liquidators than one are appointed, such remuneration shall be distributed amongst them in such proportions as the Court directs.

Style and duties of official liquidator.

143. The official liquidator shall be described by the style of the official liquidator of the particular Company in respect of which he is appointed, and not by his individual name. He shall take into his custody, or under his control, all the property, effects and actionable claims to which the Company is or appears to be entitled, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

Power of official liquidator.

144. The official liquidator shall have power, with the sanction of the Court, to do the following things :—

(*a*) to bring or defend any suit or prosecution, or other legal proceeding, civil or criminal, in the name and on behalf of the Company;

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(*b*) to carry on the business of the Company, so far as may be necessary for the beneficial winding-up of the same;

(*c*) to sell the immoveable and moveable property of the Company by public auction or private contract, with power to transfer the whole thereof to any person or Company, or to sell the same in parcels;

(*d*) to do all acts, and to execute, in the name and on behalf of the Company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the Company's seal;

(*e*) to prove, rank, claim, and draw a dividend, in the matter of the insolvency of any contributory, for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of the insolvency, as a separate debt due from such insolvent, and rateably with the other separate creditors;

(*f*) to draw, accept, make, and endorse any bill of exchange, hundi, or promissory note in the name and on behalf of the Company; also to raise, upon the security of the assets of the Company, from time to time, any requisite sum or sums of money; and the drawing, accepting, making, or endorsing of every such bill, hundi, or note as aforesaid on behalf of the Company shall have the same effect with respect to the liability of such Company as if such bill or note had been drawn, accepted, made, or endorsed by or on behalf of such Company in the course of carrying on the business thereof;

(*g*) to take out, if necessary, in his official name, letters of administration to the estate of any deceased contributory, and to do, in his official name, any other act that may be necessary for obtaining payment of any monies due from a contributory or from his estate, and which act cannot be conveniently done in the name of the Company; and in all cases where he takes out letters of administration, or otherwise uses his official name for obtaining payment of any monies due from a contributory, such monies shall, for the purpose of enabling him to take out such letters or recover such monies, be deemed to be due to the official liquidator himself: Provided that nothing herein contained shall be deemed to affect the rights, duties, and privileges of the Administrators-General of Bengal, Madras, and Bombay, respectively;

(*h*) to do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

Discretion of official liquidator.

145. The Court may provide by any order that the official liquidator may exercise any of the above powers without the sanction or intervention of the Court, and, where an official liquidator is provisionally appointed, may limit and restrict his powers by the order appointing him.

Appointment of attorney or vakil to official liquidator.

146. The official liquidator may, with the sanction of the Court, appoint an attorney or vakil to assist him in the performance of his duties: Provided that, where the official liquidator is an attorney, he shall not appoint his partner unless the latter consents to act without remuneration.

*Ordinary Powers of Court.*

Collection and application of assets.

147. As soon as may be after making an order for winding-up the Company, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where such rectification is required in

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pursuance of section fifty-eight, and shall cause the assets of the Company to be collected and applied in discharge of its liabilities existing at the date of the said order.

Provision as to representative contributories.

**148.** In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right, and persons who are contributories as being representatives of, or being liable to the debts of, others.

Power of Court to require delivery of property.

**149.** The Court may, at any time after making an order for winding-up a Company, require any contributory for the time being settled on the list of contributories, trustee, receiver, banker, or agent, or officer of the Company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the Court directs, to or into the hands of the official liquidator, any sum or balance, books, papers, estate, or effects which happen to be in his hands for the time being and to which the Company is *primâ facie* entitled.

Power of Court to order payment of debts by contributory.

**150.** The Court may, at any time after making an order for winding-up the Company, make an order on any contributory for the time being settled on the list of contributories directing payment to be made, in manner in the said order mentioned, of any monies due from him or from the estate of the person whom he represents to the Company exclusive of any monies which he, or the estate of the person whom he represents, may be liable to contribute by virtue of any call made or to be made by the Court in pursuance of this part of this Act.

The Court may, in making such order, when the Company is not limited, allow to such contributory, by way of set-off, any monies due to him or the estate which he represents from the Company on any independent dealing or contract with the Company, but not any monies due to him as a member of the Company in respect of any dividend or profits:

Provided that, when all the creditors of any Company, whether limited or unlimited, are paid in full, any monies due on any account whatever to any contributory from the Company may be allowed to him by way of set-off against any subsequent call or calls.

In the event of the winding-up of any limited Company, the Court, if it thinks fit, may make to any director or manager of such Company whose liability is unlimited the same allowance by way of set-off as under this section it may make to a contributory where the Company is not limited.

Power of Court to make calls.

**151.** The Court may, at any time after making an order for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, make calls on, and order payment thereof by, all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company, and the costs, charges, and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves.

The Court may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same.

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Power of Court to order payment into Bank.

152. The Court may order any contributory, purchaser, or other person from whom money is due to the Company to pay the same into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, as the case may be, or any branch thereof respectively, to the account of the official liquidator instead of to the official liquidator; and such order may be enforced in the same manner as if it had directed payment to the official liquidator.

Regulation of account with Court.

153. All monies, bills, hundis, notes, and other securities paid and delivered into the Bank of Bengal, the Bank of Madras, or the Bank of Bombay, or any branch thereof respectively, in the event of a Company being wound up by the Court, shall be subject to such order and regulation for the keeping of the account of such monies and other effects, and for the payment and delivery in, or investment and payment and delivery out, of the same as the Court may direct.

Provision in case of representative contributory not paying monies ordered.

154. If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering the property of such deceased contributory, whether moveable or immoveable, or both, and of compelling payment thereout of the monies due.

Order conclusive evidence.

155. Any order made by the Court in pursuance of this Act upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the monies, if any, thereby appearing to be due or ordered to be paid are due; and all other pertinent matters stated in such order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

Court may exclude creditors not proving within certain time.

156. The Court may fix a certain day or certain days on or within which creditors of the Company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

Court to adjust rights of contributories.

157. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst the parties entitled thereto.

Court to order costs.

158. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the Company of the costs, charges, and expenses incurred in winding-up any Company in such order of priority as the Court thinks just.

Dissolution of Company.

159. When the affairs of the Company have been completely wound up, the Court shall make an order that the Company shall be dissolved from the date of such order, and the Company shall be dissolved accordingly.

Registrar to make minute of dissolution of Company.

160. Any order so made shall be reported by the official liquidator to the Registrar, who shall make a minute accordingly in his books of the dissolution of such Company.

Penalty for not reporting dissolution of Company.

161. If the official liquidator makes default in reporting to the Registrar, in the case of a Company being wound up by the Court, the order that the Company be dissolved, he shall be liable to a penalty not exceeding one hundred rupees for every day during which he is so in default.

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*Extraordinary Powers of Court.*

Power of Court to summon persons before it suspected of having property of Company.

**162.** The Court may, after it has made an order for winding-up the Company, summon before it any officer of the Company, or person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, or any person whom the Court may deem capable of giving information concerning the trade, dealings, estate, or effects of the Company.

If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, having no lawful impediment (made known to the Court at the time of its sitting and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination.

The Court may require any such officer or person to produce any documents in his custody or power relating to the Company. Nevertheless, in cases where any person claims any lien on documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding-up to determine all questions relating to such lien.

Examination of parties by Court.

**163.** The Court may examine upon oath, either by word of mouth or upon written interrogatories, any person appearing or brought before it in manner aforesaid concerning the affairs, dealings, estate, or effects of the Company, and may reduce into writing the answers of every such person, and require him to subscribe the same.

Power to arrest contributory about to abscond or to remove or conceal any of his property.

**164.** The Court may, at any time before or after it has made an order for winding-up a Company, upon proof being given that there is probable cause for believing that any contributory to such Company is about to quit British India or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or for avoiding examination in respect of the affairs of the Company, cause such contributory to be arrested, and his books, papers, monies, securities for monies, goods and chattels to be seized, and him and them to be safely kept until such time as the Court may order.

Power of Court cumulative.

**165.** Any powers by this Act conferred on the Court shall be deemed to be in addition to, and not in restriction of, any other powers subsisting of instituting proceedings against any contributory, or the estate of any contributory, or against any debtor of the Company, for the recovery of any call or other sums due from such contributory or debtor, or his estate; and such proceedings may be instituted accordingly.

*Enforcement of, and Appeal from, Orders.*

Power to enforce orders.

**166.** All orders made by a Court under this Act may be enforced in the same manner in which decrees of such Court made in any suit pending therein may be enforced.

Order made in any Court to be enforced by other Courts.

**167.** Any order made by a Court for or in the course of the winding-up of a Company under this Act shall be enforced in any part of British India, other than that in which such Court is situate, in the Court that would have had jurisdiction in respect of such Company if the registered office of the Company had been situate in such other part, and in the same manner in all

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respects as if such order had been made by the Court that is hereby required to enforce the same.

Mode of dealing with orders to be enforced by other Courts.

168. Where any order or decree made by one Court is required to be enforced by another Court as hereinbefore provided, a certified copy of the order or decree so made shall be produced to the proper officer of the Court required to enforce the same, and the production of such certified copy shall be sufficient evidence of such order or decree having been made; and thereupon such last-mentioned Court shall take such steps in the matter as may be requisite for enforcing such order or decree, in the same manner as if it were the order or decree of the Court enforcing the same.

Appeals from orders.

169. Re-hearings of, and appeals from, any order or decision made or given in the matter of the winding-up of a Company by the Court may be had in the same manner and subject to the same conditions in and subject to which appeals may be had from any order or decision of the same Court in cases within its ordinary jurisdiction; subject to this restriction, that no such re-hearing or appeal shall be heard unless notice of the same is given within three weeks after any order complained of has been made, in manner in which notices of appeal are ordinarily given under the Code of Civil Procedure, unless such time is extended by the Court of appeal.

Judicial notice to be taken of signature of officers.

170. In all proceedings under this Part of this Act, every Court, Judge, and person judicially acting, and all other officers, judicial or ministerial, of any Court, or employed in enforcing the process of any Court, shall take judicial notice of the signature of any officer of any other Court, and also of the official seal of any other Court, when such seal is appended to any document made, issued, or signed under the provisions of this Part of this Act, or any official copy thereof.

Special Commissioners for receiving evidence.

171. The Judges of the District Courts, who sit at places more than twenty English miles from the usual place of sitting of the High Court, shall be Commissioners for the purpose of taking evidence under this Act in cases where any Company is wound up in a High Court; and it shall be lawful for the High Court to refer the whole or any part of the examination of any witnesses under this Act to any person hereby appointed Commissioner, although such Commissioner is out of the jurisdiction of the Court that made the order or decree for winding-up the Company.

Every such Commissioner shall in addition to any power of summoning and examining witnesses and requiring the production or delivery of documents and certifying or punishing defaults by witnesses, which he might lawfully exercise as a Judge of a District Court, have, in the matter so referred to him, all the same powers of summoning and examining witnesses, and requiring the production or delivery of documents, and punishing defaults by witnesses, and allowing costs and charges and expenses to witnesses, as the Court which made the order for winding-up the Company has; and the examination so taken shall be returned or reported to such last-mentioned Court in such manner as it directs.

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Affidavits, &c., may be sworn in British India, Great Britain or Ireland, or abroad, before any competent Court or person.

172. If any affidavit, affirmation, or declaration, required to be sworn or made under the provisions or for the purposes of this Part of this Act, be lawfully sworn or made in British India, or in Great Britain or Ireland, or in any colony, island, plantation, or place under the dominion of Her Majesty in foreign parts, before any Court, Judge, or person lawfully authorized to take and receive affidavits, affirmations, or declarations, or before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts out of Her Majesty's dominions, all Courts, Judges, Justices, Commissioners, and persons acting judicially in British India shall take judicial notice of the seal or stamp or signature (as the case may be) of any such Court, Judge, person, Consul or Vice-Consul, attached, appended, or subscribed to any such affidavit, affirmation, or declaration, or to any other document to be used for the purposes of this Part of this Act.

*Voluntary Winding-up of Company.*

Circumstances under which Company may be wound up voluntarily.

173. A Company under this Act may be wound up voluntarily,

(*a*) whenever the period, if any, fixed for the duration of the Company by the articles of association expires, or whenever the event, if any, occurs upon the occurrence of which it is provided by the articles of association that the Company is to be dissolved, and the Company in general meeting has passed a resolution requiring the Company to be wound up voluntarily;

(*b*) whenever the Company has passed a special resolution requiring the Company to be wound up voluntarily;

(*c*) whenever the Company has passed an extraordinary resolution to the effect that it has been proved to its satisfaction that the Company cannot by reason of his liabilities continue its business, and that it is advisable to wind up the same:

For the purposes of this Act any resolution shall be deemed to be extraordinary which is passed in such manner as would, if it had been confirmed by a subsequent meeting, have constituted a special resolution as hereinbefore defined.

Commencement of voluntary winding-up.

174. A voluntary winding-up shall be deemed to commence at the time of the passing of the resolution authorizing such winding-up. When the winding-up is in pursuance of a special resolution, it shall be deemed to commence at the time of the passing, under section seventy-seven, of the confirmatory resolution.

Effect of voluntary winding-up on status of Company.

175. Whenever a Company is wound up voluntarily, the Company shall, from the date of the commencement of such winding-up, cease to carry on its business except in so far as may be required for the beneficial winding-up thereof; and all trnsfers of shares, except transfers made to or with the sanction of the liquidaors, or alteration in the status of the members of the Company, taking place after the commencement of such winding-up, shall be void; but its corporate state and all its corporate powers shall, notwithstanding that its regulations otherwise provide, continue until the affairs of the Company are wound up.

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Notice of resolution to wind up voluntarily.

176. Notice of any special resolution or extraordinary resolution passed for winding-up a Company voluntarily shall be given by advertisement in the local official Gazette, and also in some newspaper (if any) circulating in the place where the registered office of the Company is situate.

Consequence of voluntary winding-up.

177. The following consequences shall ensue upon the voluntary winding-up of a Company :—

(*a*) the assets of the Company shall be applied in satisfaction of its liabilities *pari passu* as they exist at the commencement of the winding-up, and subject thereto shall, unless the regulations of the Company otherwise provide, be distributed amongst the members according to their rights and interests in the Company :

(*b*) liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the assets :

(*c*) the Company in general meeting shall appoint such persons as it thinks fit to be liquidators, and may fix the remuneration to be paid to them :

(*d*) if one person only is appointed, all the provisions herein contained in reference to several liquidators shall apply to him :

(*e*) upon the appointment of liquidators, all the powers of the directors shall cease, except in so far as the Company in general meeting, or the liquidators, may sanction the continuance of such powers :

(*f*) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two ;

(*g*) the liquidators may, without the sanction of the Court, exercise all powers by this Act given to the official liquidators :

(*h*) the liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the Company, and any list so settled shall be *primâ facie* evidence of the liability of the persons named therein to be contributories :

(*i*) the liquidators may, at any time after the passing of the resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company, call on all or any of the contributories for the time being settled on the list of contributories, to the extent of their liability, to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company, and the costs, charges, and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves ; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same :

(*j*) the liquidators shall pay the debts of the Company, and adjust the rights of the contributories amongst themselves.

Effect of winding-up on share-capital of Company limited by guarantee.

178. Where a Company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share-capital that may not have been called up shall be deemed to be assets of the Company, and to be a debt due from each member to the Company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the liquidators.

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Power of Company to delegate authority to appoint liquidators.

179. A Company about to be wound up voluntarily, or in the course of being wound up voluntarily, may, by an extraordinary resolution, delegate to its creditors, or to any committee of its creditors, the power of appointing liquidators or any of them, and supplying any vacancies in the appointment of liquidators, or may, by a like resolution, enter into any arrangement with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised.

Any act done by the creditors in pursuance of such delegated power shall have the same effect as if it had been done by the Company.

Arrangement when binding on creditors.

180. Any arrangement which a Company about to be wound up voluntarily, or in the course of being wound up voluntarily, shall have entered into with its creditors shall be binding on the Company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors, subject to such right of appeal as is hereinafter mentioned.

Power of creditor or contributory to appeal.

181. Any creditor or contributory of a Company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon, as it thinks just, amend, vary, or confirm the same.

Power for liquidators or contributories in voluntary winding-up to apply to Court.

182. Where a Company is being wound up voluntarily, the liquidators or any contributory of the Company may apply to the Court to determine any question arising in the matter of such winding-up, or to exercise, as respects the enforcing of calls or in respect of any other matter, all or any of the powers which the Court might exercise if the Company were being wound up by the Court. Any such application may be made by motion. The Court, if satisfied that the determination of such question or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or it may make such other order or decree on such application as the Court thinks just.

Power of liquidators to call general meeting.

183. Where a Company is being wound up voluntarily, the liquidators may, from time to time, during the continuance of such winding-up, summon general meetings of the Company for the purpose of obtaining the sanction of the Company by special resolution or extraordinary resolution, or for any other purposes they think fit.

In the event of the winding-up continuing for more than one year, the liquidators shall summon a general meeting of the Company at the end of the first year and of each succeeding year from the commencement of the winding-up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and dealings, and the manner in which the winding-up has been conducted, during the preceding year.

Power to fill up vacancy in office of liquidators.

184. If any vacancy occurs in the office of liquidators appointed by the Company, by death, resignation, or otherwise, the Company in general meeting may, subject to any arrangement they may have entered into with their creditors, fill up such vacancy; and a general meeting for the purpose of fill-

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ing up such vacancy may be convened by the continuing liquidators, if any, or by any contributory of the Company, and shall be deemed to have been duly held if held in manner prescribed by the regulations of the Company, or in such other manner as may, on application by the continuing liquidator, if any, or by any contributory of the Company, be determined by the Court.

Power of Court to appoint liquidators.

185. If, from any cause whatever, there is no liquidator acting in the case of a voluntary winding-up, the Court may, on the application of a contributory, appoint a liquidator or liquidators. The Court may also, on due cause shown, remove any liquidator and appoint another liquidator to act in the matter of a voluntary winding-up.

Liquidator on conclusion of winding-up to make up an account.

186. As soon as the affairs of the Company are fully wound up, the liquidators shall make up an account showing the manner in which such winding-up has been conducted and the property of the Company disposed of; and thereupon they shall call a general meeting of the Company for the purpose of having the account laid before them, and hearing any explanation that may be given by the liquidators.

The meeting shall be called by advertisement, specifying the time, place and object of such meeting, and such advertisement shall be published one month at least previously to the meeting in the manner specified in section one hundred and seventy-six.

Liquidators to report meeting to Registrar.

187. The liquidators shall make a return to the Registrar of such meeting having been held, and of the date at which the same was held; and, on the expiration of three months from the date of the registration of such return, the Company shall be deemed to be dissolved.

If the liquidators make default in making such return to the Registrar, they shall incur a penalty not exceeding fifty rupees for every day during which such default continues.

Costs of voluntary liquidation.

188. All costs, charges, and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the liquidators, shall be payable out of the assets of the Company in priority to all other claims.

Saving of rights of creditors.

189. The voluntary winding-up of a Company shall not be a bar to the right of any creditor of such Company to have the same wound-up by the Court, if the Court is of opinion that the rights of such creditor will be prejudiced by a voluntary winding-up.

Power of Court to adopt proceedings of voluntary winding-up.

190. Where a Company is in course of being wound-up voluntarily, and proceedings are taken for the purpose of having the same wound-up by the Court, the Court may, if it thinks fit, notwithstanding that it makes an order directing the Company to be wound-up by the Court, provide in such order or in any other order for the adoption of all or any of the proceedings taken in the course of the voluntary winding-up.

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*Winding-up subject to the Supervision of the Court.*

Power of Court, on application, to direct winding-up subject to supervision.

191. When a resolution has been passed by a Company to wind up voluntarily, the Court may make an order directing that the voluntary winding-up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories, or others to apply to the Court, and generally upon such terms and subject to such conditions, as the Court thinks just.

Petition for winding-up subject to supervision.

192. A petition praying wholly or in part that a voluntary winding-up shall continue, but subject to the supervision of the Court, and which winding-up is hereinafter referred to as a winding-up subject to the supervision of the Court, shall, for the purpose of giving jurisdiction to the Court over suits, be deemed to be a petition for winding-up the Company by the Court.

Court may have regard to wishes of creditors.

193. The Court may, in determining whether a Company is to be wound up altogether by the Court, or subject to the supervision of the Court, in the appointment of a liquidator or of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence, and may direct meetings of the creditors or contributories to be summoned, held, and regulated in such manner as the Court directs for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting, and to report the result of such meeting to the Court.

In the case of creditors, regard shall be had to the value of the debts due to each creditor, and, in the case of contributories, to the number of votes conferred on each contributory by the regulations of the Company.

Power to Court to appoint additional liquidator in winding-up subject to supervision.

194. Where any order is made by the Court for a winding-up subject to the supervision of the Court, the Court may, in such order or in any subsequent order, appoint any additional liquidator.

Any liquidator so appointed by the Court shall have the same powers, be subject to the same obligations, and in all respects stand in the same position, as if he had been appointed by the Company.

The Court may, from time to time, remove any liquidator so appointed by the Court, and fill up any vacancy occasioned by such removal, or by death or resignation.

Effect of order of Court for winding-up subject to supervision.

195. Where an order is made for a winding-up subject to the supervision of the Court, the liquidator appointed to conduct such winding-up may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the Company were being wound up altogether voluntarily.

Save as aforesaid, any order made by the Court for a winding-up subject to the supervision of the Court, shall, for all purposes, including the staying of suits and other proceedings, be deemed to be an order of the Court for winding-up the Company by the Court, and shall confer full authority on the Court to make calls, or to enforce calls made by the liquidators, and to exercise all other powers which it might have exercised if an order had been made for winding-up the Company altogether by the Court.

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In the construction of the provisions whereby the Court is empowered to direct any act or thing to be done to or in favour of the official liquidators, the expression "official liquidator" shall be deemed to mean the liquidator conducting the winding-up subject to the supervision of the Court.

Appointment in certain cases of voluntary liquidators to office of official liquidators.

196. Where an order has been made for the winding-up of a Company subject to the supervision of the Court, and such order is afterwards superseded by an order directing the Company to be wound up compulsorily, the Court may, in such last-mentioned order or in any subsequent order, appoint the voluntary liquidators or any of them either provisionally or permanently, and either with or without the addition of any other person, to be official liquidators.

*Supplemental Provisions.*

Dispositions after the commencement of the winding-up avoided.

197. Where any Company is being wound up by the Court, or subject to the supervision of the Court, all dispositions of the property of the Company, and every transfer of shares or alteration in the status of the members of the Company, made between the commencement of the winding-up and the order for winding-up shall, unless the Court otherwise orders, be void.

The books of the Company to be evidence.

198. Where any Company is being wound up, all books, accounts, and documents of the Company and of the liquidators shall, as between the contributories of the Company, be *primâ facie* evidence of the truth of all matters purporting to be therein recorded.

As to disposal of books, accounts, and documents of the Company.

199. Where any Company has been wound up under this Act and is about to be dissolved, the books, accounts, and documents of the Company and of the liquidator may be disposed of in the following way; that is to say, where the Company has been wound up by or subject to the supervision of the Court, in such way as the Court directs, and, where the Company has been wound up voluntarily, in such way as the Company by an extraordinary resolution directs.

But, after the lapse of five years from the date of such dissolution, no responsibility shall rest on the Company or the liquidators, or any one to whom the custody of such books, accounts, and documents has been committed, by reason that the same or any of them cannot be made forth-coming to any party or parties claiming to be interested therein.

Inspection of books.

200. Where an order has been made for winding-up a Company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the Company of its books and papers as the Court thinks just, and any books and papers in the possession of the Company may be inspected by creditors or contributories in conformity with the order of the Court, but not further or otherwise.

Priority of debts.

200A. (I) In the distribution of the assets of any Company being wound up under this Act, there shall be paid in priority to all other debts—

(*a*) all revenue, taxes, cesses and rates, whether payable to Her Majesty or to a local authority, due from the Company at the date of the commencement of the winding-up, and having become due and payable within the twelve months next before that date;

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(b) all wages or salary of any clerk or servant in respect of services rendered to the Company within the two months next before the commencement of the winding-up, not exceeding one thousand rupees for each clerk or servant; and

(c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the Company within the two months next before the commencement of the winding-up.

(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the Company are insufficient to meet them, in which case they shall abate in equal proprotions among themselves.

(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the Company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator.

NOTE.—The above section has been added by Act VI of 1887.

General scheme of liquidation may be sanctioned.

**201.** The liquidator may, with the sanction of the Court, where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, pay any classes of creditors in full, or make such compromise or other arrangement as the liquidator may deem expedient with creditors or persons claiming to be creditors, or persons having or alleging themselves to have any claim present or future, whereby the Company may be rendered liable.

Power to compromise.

**202.** The liquidator may, with the sanction of the Court where the Company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the Company where the Company is being wound up altogether voluntarily, compromise all calls, and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, whether present or future, subsisting or supposed to subsist between the Company and any contributory or alleged contributory, or other debtor or person apprehending liability to the Company, and all questions in any way relating to or affecting the assets of the Company or the winding-up of the Company, generally upon such terms as may be agreed upon, with power for the liquidator to take any security for the discharge of such debts or liabilities, and to give complete discharges in respect of all or any such calls, debts, or liabilities.

Where compromise proposed, Court may order a meeting of creditors, &c., to decide as to such compromise.

**203.** Where any compromise or arrangement shall be proposed between a Company which is, at the commencement of this Act or afterwards, in the course of being wound up either voluntarily or by or under the supervision of the Court, and the creditors of such Company, or any class of such creditors, it shall be lawful for the Court, in addition to any other of its powers, on the application in a summary way of any creditor or the liquidator, to order that a meeting of such creditors or class of creditors shall be summoned in such manner as the Court shall direct; and, if a majority in number, representing three-fourths in value, of such creditors or class of creditors present either in person or by proxy at such meeting shall agree to any arrangement or compromise, such arrangement or compromise shall, if sanctioned by an order of the Court, be

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binding on all such creditors or class of creditors, as the case may be, and also on the liquidator and contributories of the said Company.

Power for liquidators to accept shares, &c., as a consideration for sale of property of Company.

**204.** Where any Company is proposed to be, or is in the course of being wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another Company, the liquidators of the first mentioned Company may, with the sanction of a special resolution of the Company by whom they were appointed, conferring either a general authority on the liquidators or an authority in respect of any particular arrangement, receive, in compensation or part compensation for such transfer or sale, shares, debentures, policies, or other like interests in such other Company for the purpose of distribution amongst the members of the Company being wound-up, or may enter into any other arrangement whereby the members of the Company being wound-up may, in lieu of receiving cash, shares, debentures, policies, or other like interests, or in addition thereto, participate in the profits of, or receive any other benefit from, the purchasing Company.

Any sale made, or arrangement entered into, by the liquidator in pursuance of this section shall be binding on the members of the Company being wound up ; subject to this proviso, that if any member of the Company being wound up, who has not voted in favour of the special resolution passed by the Company of which he is a member at either of the meetings held for passing the same, expresses his dissent from any such special resolution in writing addressed to the liquidators or one of them, and left at the registered office of the Company not later then seven days after the date of the meeting at which such special resolution was passed, such dissentient member may, by writing addressed and left as last aforesaid, require the liquidator to do one of the following things as the liquidator may prefer (that is to say):—either to abstain from carrying such resolution into effect, or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned ; such purchase-money to be paid before the Company is dissolved, and to be raised by the liquidator in such manner as may be determined by special resolution.

No special resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to, or concurrently with, any resolution for winding-up the Company or for appointing liquidators ; but if an order be made within a year for winding-up the Company by or subject to the supervision of the Court, such resolution shall not be of any validity, unless it is sanctioned by the Court.

Mode of determining price.

**205.** The price to be paid for the purchase of the interests of any dissentient member may be determined by agreement. If the parties dispute about the same, such dispute shall be settled by arbitration under the provisions next hereinafter contained.

Appointment of arbitrator when questions are to be determined by arbitration.

**206.** When any dispute so directed to be settled by arbitration has arisen, then, unless both parties concur in the appointment of a single arbitrator, each party, on the request of the other party, shall by writing under his hand nominate and appoint an arbitrator to whom such dispute shall be referred.

After any such appointment has been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as such revocation.

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If for the space of fourteen days after any such dispute has arisen, and after a request in writing has been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters in dispute; and in such case the award or determination of such single arbitrator shall be final.

Vacancy of arbitrator to be supplied.

**207.** If, before the matters so referred are determined, any arbitrator appointed by either party die, or become incapable, or refuse, or for seven days neglect, to act as arbitrator, the party by whom such arbitrator was appointed may nominate and appoint in writing some other person to act in his place; and if, for the space of seven days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed *ex parte*; and every arbitrator so substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death, refusal, or disability as aforesaid.

Appointment of umpire.

**208.** When more arbitrators than one have been appointed, they shall before entering upon the matters referred to them, nominate and appoint by writing under their hands an umpire to decide on any such matters on which they shall differ.

If such umpire die, or refuse, or for seven days neglect, to act, they shall forthwith, after such death, refusal, or neglect, appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

Power of arbitrators to call for books, &c.

**209.** The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath.

Costs to be in the discretion of the arbitrators.

**210.** The costs of and attending every such arbitration to be determined by the arbitrators shall be in the discretion of the arbitrators or their umpire, as the case may be.

Submission to arbitration may be filed in Court.

**211.** On the application of either of the parties, the submission to any such arbitration may be filed in the Court, and an order of reference may be made thereon; and the provisions of the Code of Civil Procedure shall, so far as the same are applicable, apply to every such order and to all proceedings thereunder.

Certain attachments, distresses, and executions to be void.

**212.** Where any Company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress, or execution put in force, without the leave of the Court, against the estate or effects of the Company after the commencement of the winding-up shall be void.

Nothing in this section applies to proceedings by the Government.

Fraudulent preference.

**213.** Every conveyance, mortgage, delivery of goods, payment, execution, or other act relating to property, which would if made or done by or against any individual trader, be deemed, in the event of his insolvency, to have been made or done by way of undue or fraudulent preference of the creditors of such trader, shall, if

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made or done by or against any Company, be deemed, in the event of such Company being wound up under this Act, to have been made or done by way of undue or fraudulent preference of the creditors of such Company, and shall be invalid accordingly.

For the purposes of this section, the making of an application for winding-up a Company shall, in the case of a Company being wound up by the Court or subject to the supervision of the Court, and a resolution for winding-up the Company shall, in the case of a voluntary winding-up, be deemed to correspond with the act of insolvency in the case of an individual trader; and any conveyance or assignment made by any Company formed under this Act, of all its estate and effects to trustees, for the benefit of all its creditors, shall be void.

Power of Court to assess damages against delinquent directors and officers.

214. Where, in the course of the winding-up of any Company under this Act, it appears that any past or present director, manager, official or other liquidator, or any officer of such Company, has misapplied or retained in his own hands, or become liable or accountable for, any monies of the Company, or been guilty of any misfeasance or breach of trust in relation to the Company, the Court may, on the application of any liquidator or of any creditor or contributory of the Company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager, or other officer, and compel him to repay any monies so misapplied or retained, or for which such officer has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the Company by way of compensation in respect of such misapplication, retainer, misfeasance, or breach of trust, as the Court thinks just.

*Explanation I.*—The banker of a Company is not, as such, an officer within the meaning of this section.

*Explanation II.*—Proceedings cannot be taken under this section against the representatives of a deceased officer.

Penalty on falsification of books.

215. If any director, officer or contributory of any Company wound up under this Act destroys, mutilates, alters, falsifies, or fraudulently secretes any books, papers, writings, or securities, or makes, or is privy to the making of, any false or fraudulent entry in any register, book of account, or other document belonging to the Company, with intent to defraud or deceive any person, every person so offending shall be punished with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five hundred rupees.

Prosecution of delinquent directors in the case of winding-up by Court.

216. Where any order is made for winding-up a Company by the Court or subject to the supervision of the Court, if it appear in the course of such winding-up that any past or present director, manager, officer, or member of such Company has been guilty of any offence in relation to the Company for which he is criminally responsible, the Court may, on the application of any person interested in such winding-up or of its own motion, direct the official liquidators, or the liquidators (as the case may be) to institute a prosecution for such offence, and may order the costs and expenses of such prosecution to be paid out of the assets of the Company.

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Penalty for false evidence.

217. If any person, upon any examination upon oath authorized under this Act, or any affidavit, deposition, or solemn affirmation, in or about the winding-up of any Company under this Act, or otherwise in or about any matter arising under this Act, intentionally gives false evidence, he shall be liable to imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Winding-up may be referred to District Court.

218. Where the High Court makes an order for winding-up a Company under this Act, it may, if it thinks fit, direct all subsequent proceedings to be had in a District Court; and thereupon such District Court shall, for the purpose of winding-up the Company, be deemed to be "the Court" within the meaning of this Act, and shall have, for the purposes of such winding-up, all the jurisdiction and powers of the High Court.

As to transfer of winding-up from one District Court to another.

219. If during the progress of a winding-up in a District Court it is made to appear to the High Court that the same could be more conveniently prosecuted in any other District Court, the High Court may transfer the same to such other Court, and thereupon the winding-up shall proceed in such other District Court.

## PART V.

### REGISTRATION-OFFICE.

Constitution of registration-office.

220. The registration of Companies under this Act shall be conducted as follows (that is to say) :—

(*a*) The Local Government may, after the sanction of the Governor-General in Council to the creation of any such offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, clerks, and servants as it may think necessary, for the registration of Companies under this Act, and remove them at pleasure :

(*b*) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, clerks, and servants as aforesaid :

(*c*) The Local Government may, from time to time, determine the places at which offices for the registration of Companies are to be established, so that there be at all times maintained in each of the towns of Calcutta, Madras and Bombay at least one such office, and that no Company shall be registered except at an office within that part of British India in which, by the memorandum of association, the registered office of the Company is declared to be established :

(*d*) The Local Government may, from time to time, direct a seal or seals to be prepared for the authentication of any documents required for or connected with the registration of Companies :

(*e*) Every person may inspect the documents kept by the Registrar of joint stock Companies. There shall be paid for such inspection such fees as may be directed by the Local Government, not exceeding one rupee for each inspection. Any person may require a certificate of the incorporation of any Company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar. There shall be paid for such certificate of incorporation, certified copy or extract, such fees as the Local Government may direct, not exceeding three rupees for the certificate

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of incorporation, and not exceeding two annas for each hundred words of such copy or extract :

(*f*) The existing Registrar, Assistant Registrars, clerks, and other officers and servants in the office for the registration of joint stock Companies shall, during the pleasure of the Local Government, hold the offices and receive the salaries hitherto held and received by them, but they shall in the execution of their duties conform to any regulations that may be issued by the Local Government :

(*g*) There shall be paid to any Registrar, Assistant Registrar, clerk, or servant that may hereafter be employed in the registration of joint stock Companies such salary as the Local Government may, with the sanction of the Governor-General in Council, direct :

(*h*) Whenever any act is herein directed to be done to or by the Registrar of joint stock Companies, such act shall, until the Local Government otherwise directs, be done to or by the existing Registrar of joint stock Companies, or in his absence to or by such person as the Local Government may for the time being authorize. But in the event of the Local Government altering the constitution of the existing registry-office, such act shall be done to or by such officer or officers, and at such place or places, with reference to the local situation of the registered offices of the Companies to be registered, as the Local Government may appoint.

NOTE.—Under the provisions of Section 220 of Act VI of 1882 (The Indian Companies' Act), the Hon'ble the Lieutenant-Governor is pleased to make the following regulations with respect to the duties to be performed by the Registrar of Joint Stock Companies.

The Regulations shall come into force on the 15th September 1883, and from that date *Punjab Government Gazette* Notification, Department of Revenue, Agriculture and Commerce, No. 356 S., dated 14th August 1877, shall be superseded.

*Rules framed under Section 220 of the Indian Companies' Act.*

1. The Inspector-General of Registration for the time being shall *ex-officio* be the Registrar of Joint Stock Companies for the Punjab and its Dependencies (hereinafter called the "Registrar").

2. The office of the Registrar shall be established at Lahore, and shall be open for business from 11 A. M. to 3 P. M. daily, Sundays and authorized holidays excepted.

3. The Registrar shall maintain a book entitled the "Register of Companies" (hereinafter called the "Register"), in which the following particulars shall be entered, a separate page being assigned to each Company :—

| | |
|---|---|
| (*a*). Name of Company.<br>(*b*). Whether limited by shares or guarantee, or unlimited.<br>(*c*). Nominal capital, or (in case of a Company not having a divided capital) number of members.<br>(*d*). Situation of registered office. | On the top of the page. |
| (*e*). Date of registration.<br>(*f*). Act under which registered.<br>(*g*). Serial number of document filed.<br>(*h*). Description of document filed.<br>(*i*). By whom filed.<br>(*k*). When and to whom certificate granted. | In columns ruled down the page, one for each heading. |

The entries in this Register shall include the record of registration of the following (that is to say) :—Memoranda of association, articles of association, copies of special resolutions, periodical balance-sheets and lists of members, and all other documents filed, or facts recorded, under the provisions of the Indian Companies' Act, 1882 (hereinafter called "the

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Act"). Notices of facts to be recorded shall be printed and may be sent to the Registrar through the post (in registered covers), or delivered to him, or left at his office during business hours, but no fact shall be recorded on a mere verbal notice.

4. If any memorandum of association or other document be delivered to the Registrar for registration or record, and if it be found to be defective in any of the particulars required by law, the Registrar shall return it for rectification; and he shall not register or file it until all the requirements of the law have been complied with.

5. It shall be the duty of the Registrar to see that all returns required by the Act to be furnished to him are duly and punctually furnished, and he shall be deemed the proper officer for instituting and conducting all prosecutions under the Act.

6. There shall be endorsed on every document recorded in the Register the following particulars :—

(*a*). A serial number (there being a separate series for each Company) corresponding to the entry in column (*g*) of the Register.

(*b*). The name of the Company to which the document relates.

(*c*). A brief description of the document, corresponding to the entry in column (*h*) of the Register.

(*d*). The date of registration and the Act under which registered.

This endorsement shall be signed by the Registrar and sealed with the seal of his office. Registered documents shall be filed in bundles and arranged in the order of their endorsed numbers, there being a separate bundle for each Company.

7. Subject to the payment of the fees prescribed in Regulation 11, the Register and all documents recorded therein shall be available for public inspection during business hours; such inspection shall take place in the presence of the Registrar, or of some person appointed by him in that behalf. And subject, as aforesaid, any person requiring a copy or extract of any document recorded in the Register shall be furnished with such copy or extract, certified by the Registrar to be true, and sealed with the seal of his office.

8. The certificate of incorporation, required by Section 41 of the Act to be given to a Company on the registration of its memorandum of association, shall be in the following form, and shall be signed by the Registrar and sealed with the seal of his office :—

*In the Office of the Registrar of Joint Stock Companies, Punjab.*

I hereby certify that, pursuant to the provisions of Act VI of 1882, the memorandum of association of the has this day been filed and registered, and that the said Company is duly incorporated as a Company limited by shares (*or as the case may be*).

Give under my hand and seal this day of

Fee Rs.

Seal.

*Signature.*

9. Subject to the payment of the fee prescribed in Regulation 11, a certificate of incorporation (other than the certificate required to be given to a Company on the registration of its memorandum of association) may be given to any person requiring it under the provisions of Section 220, clause (*e*), of the Act; and such certificate shall, as far as circumstances permit, be in the form, and shall be signed and sealed in the manner prescribed in Regulation 8.

10. On filing and registering any document, other than the memorandum of association, the Registrar shall furnish the Company concerned with a certificate in the following form sealed and signed in the manner prescribed in Regulation 8 :—

*In the Office of the Registrar of Joint Stock Companies, Punjab.*

IN THE MATTER OF THE

I hereby certify that the undermentioned documents have this day been duly filed and registered pursuant to the provisions of Act VI of 1882, to wit :

Given under my hand and seal this day of

Fees Rs.

Seal.

*Signature.*

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11. The following fees shall be levied under the provisions of Section 220, Clause (*e*) of the Act :—

| | |
|---|---|
| For each inspection under Regulation 7 | One rupee. |
| For certified copies and extracts under Regulation 7. | Two annas for each hundred words or part thereof. |
| For a certificate of incorporation under Regulation 9. | Three rupees. |

But no fees beyond those prescribed in Tables B and C, First Schedule, of the Act, shall be levied from Companies for the grant of certificates under Regulations 8 and 10.

12. The Registrar shall keep a book called the "Fees Book" in which shall be entered, day by day, all fees realized under the Act and these Regulations. All fees so realized shall be paid into the Government Treasury as soon as possible after receipt.

13. The Registrar shall institute such inquiries and investigations at the offices of registered Companies, or otherwise as shall be necessary, to obtain information or evidence respecting defaults or respecting any infractions of the law, made by such Companies in complying with any of the provisions of the Act.

14. The Registrar may assign any of the duties prescribed under these rules to an Assistant Registrar where such an officer may be appointed by Government, and may distribute the office work to the Assistant Registrar, clerks and servants in such manner as he may think fit.

15. The Registrar shall furnish to the Local Government at the close of each official year a report on the working of his office, and containing such particulars as the Local Government may from time to time prescribe.

(*Punjab Government Notification No. 60, dated 22nd August 1883,—Punjab Gazette of 23rd idem, Part I, page 489*).

## PART VI.

### APPLICATION OF ACT TO COMPANIES REGISTERED UNDER THE JOINT STOCK COMPANIES' ACTS.

Application of Act to Companies formed under Act XIX of 1857 or VII of 1860.

221. Subject as hereinafter mentioned, this Act, with the exception of Table A in the first schedule, shall apply to Companies formed and registered under Act No. XIX of 1857 and Act No. VII of 1860, or either of them, in the same manner, in the case of a limited Company, as if such Company had been formed and registered under this Act as a Company limited by shares, and, in the case of a Company other than a limited Company, as if such Company had been formed and registered as an unlimited Company under this Act; with this qualification that, wherever reference is made expressly or impliedly to the date of registration, such date shall be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them, and the power of altering regulations by special resolution given by this Act shall, in the case of any Company formed and registered under the said Acts or either of them, extend to altering any provisions contained in the table marked B annexed to Act No. XIX of 1857, and shall also, in the case of an unlimited Company formed and registered as last aforesaid, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that such regulations are contained in the memorandum of association.

Application of Act to Companies registered under Act XIX of 1857 or VII of 1860.

222. This Act shall apply to Companies registered but not formed under the said Acts or either of them, in the same manner as it is hereinafter declared to apply to Companies registered but not formed under this Act; with this qualification that, wherever reference is made expressly or impliedly to the date of registration, such date shall

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be deemed to refer to the date at which such Companies were respectively registered under the said Acts or either of them.

Mode of transferring shares.

223. Any Company registered under the said Acts or either of them may cause its shares to be transferred in manner hitherto in use, or in such other manner as the Company may direct.

## PART VII.

### COMPANIES AUTHORIZED TO REGISTER UNDER THIS ACT.

Companies capable of being registered.

224. With the exceptions made in the next following section, and subject to the regulations therein contained, every Company existing at the time of the commencement of this Act, including any Company registered under either of the said Acts, consisting of seven or more members, and any Company hereafter formed in pursuance of any Act of Parliament or Act of the Governor-General in Council other than this Act, or of Letters Patent, or being otherwise duly constituted by law, and consisting of seven or more members, may at any time hereafter register itself under this Act as an unlimited Company, or a Company limited by shares, or a Company limited by guarantee, and no such registration shall be invalid by reason that it has taken place with a view to the Company being wound up.

Regulations as to registration of existing Companies.

225. The following regulations shall be observed with respect to the registration of Companies under this Part of this Act (that is to say) :—

(*a*) No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General in Council other than this Act, or by Letters Patent, and not being a joint stock Company as hereinafter defined, shall register under this Act in pursuance of this Part thereof :

(*b*) No Company having the liability of its members limited by Act of Parliament or Act of the Governor-General in Council other than this Act, or by Letters Patent, shall register under this Act in pursuance of this Part thereof as an unlimited Company, or as a Company limited by guarantee :

(*c*) No life-assurance Company existing at the time of the commencement of this Act, and no Company that is not a joint stock Company as hereinafter defined, shall in pursuance of this Part of this Act register under this Act as a Company limited by shares :

(*d*) No Company shall register under this Act in pursuance of this Part thereof unless an assent to its so registering is given by a majority of such of its members as may be present personally, or by proxy in cases where proxies are allowed by the regulations of the Company, at some general meeting summoned for the purpose :

(*e*) Where a Company, not having the liability of its members limited by Act of Parliament, or Act of the Governor-General in Council, or by Letters Patent, is about to register as a limited Company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present, personally or by proxy, at such last-mentioned general meeting :

(*f*) Where a Company is about to register as a Company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time

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that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceased to be a member, and of the costs, charges, and expenses of winding-up the Company, and for the adjusment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding a specified amount.

In computing any majority under this section, when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the Company of which he is a member.

Definition of "joint stock Company."

226. For the purposes of this Part of this Act, so far as the same relates to the description of Companies empowered to register as Companies limited by shares, a joint stock Company shall be deemed to be a Company having a permanent paid up or nominal capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of shares in such capital, or the holders of such stock, and no other persons; and such Company, when registered with limited liability under this Act, shall be deemed to be a Company limited by shares,

Requisitions for registration by Companies.

227. Previously to the registration, in pursuance of this Part of this Act, of any joint stock Company, there shall be delivered to the Registrar the following documents (that is to say) :—

(*a*) A list showing the names, addresses, and occupations of all persons who, on a day named in such list and not being more than six clear days before the day of registration, were members of such Company, with the addition of the shares held by such persons respectively, distinguishing, in cases where such shares are numbered, each share by its number :

(*b*) A copy of any Act of Parliament or Act of the Governor-General in Council, Royal Charter, Letters Patent, Deed of Settlement, contract of co-partnery, or other instrument constituting or regulating the Company :

(*c*) If any such joint stock Company is intended to be registered as a limited Company, the above list and copy shall be accompanied by a statement specifying the following particulars (that is to say) :—

the nominal capital of the Company and the number of shares into which it is divided ;

the number of shares taken and the amount paid on each share ;

the name of the Company, with the addition of the word "limited" as the last word thereof ;

with the addition, in the case of a Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

Requisition for registration by existing Company not being a joint stock Company.

228. Previously to the registration in pursuance of this Part of this Act of any Company not being a joint stock Company, there shall be delivered to the Registrar a list showing the names, addresses, and occupations of the directors or other managers (if any) of the Company, also a copy of any Act of Parliament, Act of the Governor-General in Council, Letters Patent, deed of settlement, contract of co-partnery, or other instrument constituting or regulating the Company, with the addition, in the case of a

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Company intended to be registered as a Company limited by guarantee, of the resolution declaring the amount of the guarantee.

Power for existing Company to register amount of stock instead of shares.

229. Where a joint stock Company authorized to register under this Act has had the whole or any portion of its capital converted into stock, such Company shall, as to the capital so converted, instead of delivering to the Registrar a statement of shares, deliver to the Registrar a statement of the amount of stock belonging to the Company, and the names of the persons who were holders of such stock, on some day to be named in the statement, not more than six clear days before the day of registration.

Authentication of statements of existing Companies.

230. The lists of members and directors and any other particulars relating to the Company hereby required to be delivered to the Registrar shall be verified by declaration of the directors of the Company delivering the same, or any two of them, or of any two other principal officers of the Company, made before a Justice of the Peace or a District Judge.

Registrar may require evidence as to nature of Company.

231. The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether an existing Company is or is not a joint stock Company as hereinbefore defined.

On registration of banking Company with limited liability, notice to be given to customers.

232. Every banking Company existing at the date of the passing of this Act which registers itself as a limited Company shall, at least thirty days previous to obtaining a certificate of registration with limited liability, give notice that it is intended so to register the same to every person and partnership firm having a banking account with the Company.

Such notice shall be given either by delivering the same to such person or firm, or leaving the same, or putting the same into the post addressed to him or them, at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company.

In case the Company omits to give any such notice as is hereinbefore required to be given, then as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with limited liability shall have no operation.

Exemption of certain Companies from payment of fees.

233. No fees shall be charged in respect of the registration in pursuance of this Part of this Act of any Company in cases where such Company is not registered as a limited Company, or where previously to its being registered as a limited Company, the liability of the shareholders was limited by some Act of Parliament, or Act of the Governor-General in Council, or by Letters Patent.

Company to change name.

234. Any Company authorized by this Part of this Act to register with limited liability shall, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "limited."

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Certificate of registration of existing Companies.

235. Upon compliance with the requisitions in this Part of this Act contained with respect to registration, and on payment of such fees, if any, as are payable under the tables marked B and C in the first schedule hereto, the Registrar shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a limited Company, that it is limited ; and thereupon such Company shall be incorporated, and shall have perpetual succession and a common seal.

Certificate to be evidence of compliance with Act.

236. A certificate of incorporation given at any time to any Company registered in pursuance of this Part of this Act shall be conclusive evidence that all the requisitions herein contained in respect of registration under this Act have been complied with and that the Company is authorized to be registered under this Act as a limited or unlimited Company, as the case may be ; and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the Company is incorporated under this Act.

Transfer of property to Company.

237. All such property, moveable and immoveable, including all interests and rights in, to, and out of property, moveable and immoveable, and including obligations and actionable claims, as may belong to or be vested in the Company at the date of its registration under this Act, shall, on registration, pass to and vest in the Company as incorporated under this Act for all the estate and interest of the Company therein.

Registration under this Act not to affect obligations incurred previously to registration.

238. The registration in pursuance of this Part of this Act of any Company shall not affect or prejudice the liability of such Company to have enforced against it, or its right to enforce, any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, such Company previously to such registration.

Continuation of existing suits.

239. All such suits and other legal proceedings as may at the time of the registration of any Company registered in pursuance of this Part of this Act have been commenced by or against such Company, or the public officer or any member thereof, may be continued in the same manner as if such registration had not taken place. Nevertheless, execution shall not issue against the effects of any individual member of such Company upon any decree or order obtained in any suit or proceeding so commenced as aforesaid ; but, in the event of the property and effects of the Company being insufficient to satisfy such decree or order, an order may be obtained for winding-up the Company.

Effect of registration under Act.

240. When a Company is registered under this Act in pursuance of this Part thereof, all provisions contained in any Act of Parliament, Act of the Governor-General in Council, deed of settlement, contract of copartnery, Letters Patent, or other instrument constituting or regulating the Company including, in the case of a Company registered as a Company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the Company, in the same manner and with the same incidents as if they were contained in a registered memorandum of association and articles of association ; and all the provisions of this Act shall apply to such Company and the members, contributories, and creditors thereof, in the same

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manner in all respects as if it had been formed under this Act, subject to the provisions following (that is to say) :—

(a) The table A in the first schedule to this Act shall not, unless adopted by special resolution, apply to any Company registered under this Act in pursuance of this Part thereof :

(b) That the provisions of this Act relating to the numbering of shares shall not apply to any joint stock Company whose shares are not numbered :

(c) That no Company shall have power to alter any provisions contained in any Act of Parliament, Act of the Legislative Council, or Act of the Governor-General in Council relating to the Company :

(d) That no Company shall have power, without the sanction of the Governor-General in Council, to alter any provision contained in any Letters Patent relating to the Company :

(e) In the event of the Company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the Company contracted prior to registration, who is liable to pay or contribute to the payment of any debt or liability of the Company contracted prior to registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves in respect of any such debts or liability, or to pay or contribute to the payment of the costs, charges, and expenses of winding-up the Company, so far as relates to such debts or liabilities as aforesaid. Every such contributory shall be liable to contribute to the assets of the Company, in the course of the winding-up, all sums due from him in respect of any such liability as aforesaid. In the event of the death or insolvency of any such contributory as last aforesaid, the provisions hereinbefore contained, with respect to the representatives, heirs, and devisees of deceased contributories, and with reference to the assignees of insolvent contributories, shall apply :

(f) Nothing herein contained shall authorize any Company to alter any such provisions contained in any deed of settlement, contract of co-partnery, Letters Patent, or other instrument constituting or regulating the Company, as would, if such Company had originally been formed under this Act, have been contained in the memorandum of association, and are not authorized to be altered by this Act :

But nothing herein contained shall derogate from any power of altering its constitution or regulations which may be vested in any Company registering under this Act in pursuance of this Part thereof by virtue of any Act of Parliament, Act of the Governor-General in Council, deed of settlement, contract of co-partnery, Letters Patent, or other instrument constituting or regulating the Company.

Power of Court to restrain further proceedings.

241. The Court may, at any time after the presentation of a petition for winding-up a Company registered in pursuance of this Part of this Act, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or legal proceeding against any contributory of the Company as well as against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Order for winding-up Company.

242. Where an order has been made for winding-up a Company registered in pursuance of this Part of this Act, in addition to the provisions hereinbefore contained, it is hereby further provided that no suit or other legal

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proceeding shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

## PART VIII.

### APPLICATION OF ACT TO UNREGISTERED COMPANIES.

Winding-up unregistered Companies.

243. Subject as hereinafter mentioned, any Partnership, Association, or Company, except Railway Companies incorporated by Act of Parliament or Act of the Governor-General in Council, consisting of more then seven members and not registered under this Act, and hereinafter included under the term "unregistered Company," may be wound up under this Act, and all the provisions of this Act with respect to winding-up shall apply to such Company, with the following exceptions and additions :—

(1) An unregistered Company shall, for the purpose of determining the Court having jurisdiction in the matter of the winding-up, be deemed to be registered in that part of British India where its principal place of business is situate, or, if it has a principal place of business situate in more than one part of British India, then in each part of British India where it has a principal place of business. Moreover, the principal place of business of an unregistered Company, or (where it has a principal place of business situate in more than one part of British India) such one of its principal places of business as is situate in that part of British India in which proceedings are being instituted, shall for all the purposes of the winding-up of such Company, be deemed to be the registered office of the Company :

(2) No unregistered Company shall be wound up under this Act voluntarily, or subject to the supervision of the Court :

(3) The circumstances under which an unregistered Company may be wound up are as follows (that is to say) :—

(*a*) whenever the Company is dissolved or has ceased to carry on business, or is carrying on business only for the purpose of winding-up its affairs ;

(*b*) whenever the Company is unable to pay its debts ;

(*c*) whenever the Court is of opinion that it is just and equitable that the Company should be wound up :

(4) An unregistered Company shall, for the purposes of this Act, be deemed to be unable to pay its debts—

(*a*) Whenever a creditor to whom the Company is indebted, by assignment or otherwise, in a sum exceeding five hundred rupees then due, has served on the Company, by leaving the same at the principal place of business of the Company or by delivering to the Secretary or some director or principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, a demand under his hand requiring the Company to pay the sum so due, and the Company has for the space of three weeks succeeding the service of such demand neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor ;

(*b*) whenever any suit or other proceeding has been instituted against any member of the Company for any debt or demand due or claimed to be due from the Company, or from him in his character of member of the Company, and notice in writing of the institution of such suit or other legal proceeding having been served upon the Company by leaving the same at

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the principal place of business of the Company, or by delivering it to the secretary or some director, manager, or principal officer of the Company, or by otherwise serving the same in such manner as the Court may approve or direct, the Company has not, within ten days after service of such notice, paid, secured, or compounded for such debt or demand, or procured such suit or other legal proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against such suit or other legal proceeding, and against all costs, damages, and expenses to be incurred by him by reason of the same;

(*c*) whenever execution or other process issued on a decree or order obtained in any Court in favour of any creditor in any proceeding instituted by such creditor against the Company, or any member thereof as such, or against any person authorized to be sued as nominal defendant on behalf of the Company is returned unsatisfied;

(*d*) whenever it is otherwise proved to the satisfaction of the Court that the Company is unable to pay its debts.

Who to be deemed a contributory in the event of Company being wound up.

**244.** In the event of an unregistered Company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the Company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members amongst themselves, or to pay or contribute to the payment of the costs, charges, and expenses of winding-up the Company.

Every such contributory shall be liable to contribute to the assets of the Company in the course of the winding-up all sums due from him in respect of any such liability as aforesaid.

In the event of the death or insolvency of any contributory, the provisions hereinbefore contained with respect to the personal representatives, heirs, and devisees of a deceased contributory, and to the assignees of an insolvent contributory, shall apply.

Power of Court to restrain further proceedings.

**245.** The Court may, at any time after the making of an application for winding-up an unregistered Company, and before making an order for winding-up the Company, upon the application of any creditor of the Company, restrain further proceedings in any suit or proceeding against any contributory of the Company, or against the Company as hereinbefore provided, upon such terms as the Court thinks fit.

Effect of order for winding-up Company.

**246.** Where an order has been made for winding-up an unregistered Company, in addition to the provisions hereinbefore contained in the case of Companies formed under this Act, it is hereby further provided that no suit shall be commenced or proceeded with against any contributory of the Company in respect of any debt of the Company, except with the leave of the Court and subject to such terms as the Court may impose.

Provision in case of unregistered Company.

**247.** If any unregistered Company has no power to sue and be sued in a common name, or if, for any reason, it appears expedient, the Court may, by the order made for winding-up such Company or by any subsequent order, direct that all such property, moveable and immoveable, including all interests, claims, and rights into and out of property moveable and immoveable, and including actionable claims, as may belong to or be vested in the Company, or to or in any person or persons on trust for or on behalf of the Company, or any part of such property, is to vest in the official liquidator or official liquidators by his or their

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official name or names ; and thereupon the same or such part thereof as may be specified in the order shall vest accordingly, and the official liquidator or official liquidators may in his or their official name or names, or in such name or names, and after giving such indemnity, as the Court directs, bring or defend any suits or other legal proceedings relating to any property vested in him or them, or any suits or other legal proceedings necessary to be brought or defended for the purposes of effectually winding-up the Company and recovering the property thereof.

Provisions of this Part of Act cumulative.

248. The provisions made by this Part of this Act with respect to unregistered Companies shall be deemed to be made in addition to, and not in restriction of any provisions hereinbefore contained with respect to winding-up Companies by the Court.

The Court or official liquidator may, in addition to anything contained in this Part of this Act, exercise any powers or do any act in the case of unregistered Companies which might be exercised or done by it or him in winding-up Companies formed under this Act ; but an unregistered Company shall not, except in the event of its being wound-up, be deemed to be a Company under this Act, and then only to the extent provided by this Part of this Act.

## PART IX.

### MISCELLANEOUS PROVISIONS.

Company not to buy its own shares.

249. No Company under this Act shall have power to buy its own shares.

Saving of existing proceedings for winding-up.

250. Where, previously to the commencement of this Act, an order has been made for winding-up a Company under the Indian Companies Act, 1866, or a resolution has been passed for winding-up a Company voluntarily, such Company shall be wound-up in the same manner and with the same incidents as if this Act were not passed ; and, for the purposes of such winding-up, the Indian Companies, Act, 1866, shall be deemed to remain in full force.

Saving of conveyances.

251. Where, previously to the commencement of this Act, any conveyance, mortgage-deed, or other instrument has been made in pursuance of the Indian Companies' Act, 1866, such instrument shall be of the same force as if this Act had not passed ; and for the purposes of such instrument, the Indian Companies' Act, 1866, shall be deemed to remain in full force.

Cognizance of offences.

252. All offences under this Act may be tried by any Magistrate of the first class, unless the period of imprisonment to which the offender is liable exceeds that which such officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such officer, the offender shall be committed for trial before the Court of Session.

Punishment of offences committed within presidency-towns.

If any offence which by this Act is declared to be punishable by any penalty is committed by any person within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras, and Bombay, such offence shall be punishable upon summary conviction by any Presidency Magistrate of the place at which such Court is held.

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Power to make orders as to costs.

**253.** Subject to the provisions hereinbefore contained, the Court may, in any proceedings under this Act, make such order as to costs as it thinks fit.

Power of High Court to make rules.

**254.** The High Court may from time to time make rules, consistent with this Act and with the Code of Civil Procedure, concerning the mode of proceeding to be had for winding-up a Company in such Court and in the Courts subordinate thereto, and for giving effect to the provisions hereinbefore contained as to the reduction of the capital and the sub-division of the shares of a Company.

NOTE.—The Rules are printed at the end of the Act.

Construction of "Registrar of joint stock Companies" in Act No. XXI of 1860.

**255.** In Sections 1 and 18 of Act No. XXI of 1860 (*for the registration of Literary, Scientific, and Charitable Societies*), the words "Registrar of joint stock Companies" shall be construed to mean Registrar of joint stock Companies under this Act or any Act for the time being in force.

Act not to apply to Bank of Bengal, Madras or Bombay.

**256.** Save as provided in sections one hundred and fifty-two and one hundred and fifty-three, nothing in this Act shall be deemed to apply to the Bank of Bengal, the Bank of Madras, and the Bank of Bombay.

## FIRST SCHEDULE.

## TABLE A.

### REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

*Shares.*

(1) If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts for any dividend payable in respect of such share.

(2) Every member shall, on payment of eight annas or such less sum as the Company in general meeting may prescribe, be entitled to a certificate under the common seal of the Company, specifying the share or shares held by him, and the amount paid up thereon.

(3) If such certificate is worn out or lost, it may be renewed, on payment of eight annas or such less sum as the Company in general meeting may prescribe.

*Calls on Shares.*

(4) The directors may from time to time make such calls upon the members in respect of all monies unpaid on their shares as they think fit, provided that twenty-one days' notice at least is given of each call; and each member shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the directors.

(5) A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed.

(6) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof, the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

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(7) The directors may, if they think fit, receive, from any member willing to advance the same, all or any part of the monies due upon the shares held by him beyond the sums actually called for; and, upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the member paying such sum in advance and the directors agree upon.

*Transfers of Shares.*

(8) The instrument of transfer of any share in the Company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of such share until the name of the transferee is entered in the register book in respect thereof.

(9) Shares in the Company shall be transferred in the following form :—

I, *A B*, of , in consideration of the sum of rupees paid to me by *C D* of , do hereby transfer to the said *C D* the share (*or* shares) numbered standing in my name in the books of the Company, to hold unto the said *C D*, his executors administrators, and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said *C D*, do hereby agree to take the said share (*or* shares) subject to the same conditions. As witness our hands, the day of

(10) The Company may decline to register any transfer of shares made by a member who is indebted to them.

(11) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

*Transmission of Shares.*

(12) The executors or administrators of a deceased member shall be the only persons recognized by the Company as having any title to his shares.

(13) Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any member, or in consequence of the marriage of any female member, may be registered as a member upon such evidence being produced as may from time to time be required by the Company.

(14) Any person who has become entitled to a share in consequence of the death, bankruptcy, or insolvency of any member, or in consequence of the marriage of any female member, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such share.

(15) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16) The instrument of transfer shall be presented to the Company, together with such evidence as the directors may require to prove the title of the transferee, and thereupon the Company shall register the transferee as a member.

*Forfeiture of Shares.*

(17) If any member fails to pay any call on the day appointed for payment thereof, the directors may, at any time thereafter, during such time

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as the call remains unpaid, serve a notice on him requiring him to pay such call together with interest and any expenses that may have accrued by reason of such non-payment.

(18) The notice shall name a further day on or before which such call and all interest and expenses that have accrued by reason of such non-payment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered office of the Company or some other place at which calls of the Company are usually made payable. The notice shall also state that, in the event of non-payment at or before the time and at the place appointed, the shares in respect of which such call was made will be liable to be forfeited.

(19) If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may at any time thereafter, before payment of all calls, interest, and expenses due in respect thereof has been made, be forfeited by a resolution of the directors to that effect.

(20) Any share so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company in general meeting thinks fit.

(21) Any member whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

(22) A solemn declaration in writing, made before a Magistrate, that the call in respect of a share was made and notice thereof given, and that default in payment of the call was made and that the forfeiture of the share was made by a resolution of the directors to that effect, shall be sufficient evidence of the facts therein stated as against all persons entitled to such share, and such declaration and the receipt of the Company for the price of such share shall constitute a good title to such share, and a certificate of proprietorship shall be delivered to the purchaser, and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase, and he shall not be bound to see to the application of the purchase-money, nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

*Conversion of Shares into Stock.*

(23) The directors may, with the sanction of the Company previously given in general meeting, convert any paid up shares into stock.

(24) When any shares have been converted into stock, the several holders of such stock may thenceforth transfer their respective interests therein, or any part of such interest, in the same manner and subject to the same regulations as and subject to which any shares in the capital of the Company may be transferred, or as near thereto as circumstances admit.

(25) The several holders of stock shall be entitled to participate in the dividends and profits of the Company according to the amount of their respective interests in such stock; and such interests shall, in proportion to the amount thereof, confer on the holders thereof, respectively, the same privileges and advantages for the purpose of voting at meetings of the Company and for other purposes as would have been conferred by shares of equal amount in the capital of the Company; but so that none of such privileges or advantages, except the participation in the dividends

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and profits of the Company, shall be conferred by any such aliquot part of consolidated stock as would not, if existing in shares, have conferred such privileges or advantages.

*Increase in Capital.*

(26) The directors may, with the sanction of a special resolution of the Company previously given in general meeting, increase its capital by the issue of new shares; such aggregate increase to be of such amount, and to be divided into shares of such respective amounts, as the Company in general meeting directs, or, if no direction is given, as the directors think expedient.

(27) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital, all new shares shall be offered to the members in proportion to the existing shares held by them, and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting a time within which the offer, if not accepted, will be deemed to be declined; and after the expiration of such time, or on the receipt of an intimation from the member to whom such notice is given that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the Company.

(28) Any capital raised by the creation of new shares shall be considered as part of the original capital, and shall be subject to the same provisions, with reference to the payment of calls, and the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

*General Meetings.*

(29) The first general meeting shall be held at such time, not being more than six months after the registration of the Company, and at such place, as the directors may determine.

(30) Subsequent general meetings shall be held once at the least in every year, at such time and place as may be prescribed by the Company in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year, at such place as may be determined by the directors.

(31) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(32) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by not less than one-fifth in number of the members of the Company, convene an extraordinary general meeting.

(33) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(34) Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty one days from the date of the requisition, the requisitionists or any other members amounting to the required number may themselves convene an extraordinary general meeting.

*Proceedings at General Meeting.*

(35) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and in case of special business the general nature of such business, shall be given to the members in manner hereinafter mentioned,

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or in such other manner, if any, as may be prescribed by the Company in general meeting : but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(36) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, and the consideration of the accounts, balance-sheets, and the ordinary report of the directors.

(37) No business shall be transacted at any general meeting, except the declaration of a dividend, unless a quorum of members is present at the time when the meeting proceeds to business. Such quorum shall be ascertained as follows, that is to say :—If the persons who have taken shares in the Company at the time of the meeting do not exceed ten in number, the quorum shall be five ; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed twenty.

(38) If within one hour from the time appointed for the meeting, a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the next week, at the same time and place ; and if, at such adjourned meeting, a quorum is not present, it shall be adjourned *sine die.*

(39) The chairman (if any) of the board of directors shall preside as chairman at every general meeting ot the Company.

(40) If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting, the members present shall choose some one of their number to be chairman.

(41) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place ; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favor of or against such resolution.

(43) If a poll is demanded by five or more members, it shall be taken in such manner as the chairman directs, and the result of such poll shall be deemed to be the resolution of the Company in general meeting. In the case of an equality of votes at any general meeting, the chairman shall be entitled to a second or casting vote.

*Votes of Members.*

(44) Every member shall have one vote for every share up to ten. He shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares beyond the first hundred shares.

(45) If any member is a lunatic or idiot, he may vote by his committee or other legal curator ; and if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

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(46) If one or more persons are jointly entitled to a share or shares, the member whose name stands first in the register of members as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

(47) No member shall be entitled to vote at any general meeting unless all calls due from him have been paid, and no member shall be entitled to vote in respect of any share that he has acquired by transfer, at any meeting held after the expiration of three months from the registration of the Company, unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48) Votes may be given either personally or by proxy.

(49) The instrument appointing a proxy shall be in writing, under the hand of the appointor, or, if such appointor is a corporation, under their common seal, and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the Company.

(50) The instrument appointing a proxy shall be deposited at the registered office of the Company not less than seventy-two hours before the time for holding the meeting at which the person named in such instrument proposes to vote ; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51) Any instrument appointing a proxy shall be in the following form :—

Company, Limited.

I, , of , being a member of the Company, Limited, and entitled to vote or votes, hereby appoint , of , as my proxy, to vote for me and on my behalf at the (ordinary *or* extraordinary, *as the case may be*) general meeting of the Company to be held on the day of , and at any adjournment thereof (*or* at any meeting of the Company that may be held in the year ).

As witness my hand, this day of

Signed by the said in the presence of

*Directors.*

(52) The number of the directors, and the names of the first directors, shall be determined by the subscribers of the memorandum of association.

(53) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

(54) The future remuneration of the directors, and their remuneration for services performed previously to the first general meeting, shall be determined by the Company in general meeting.

*Powers of Directors.*

(55) The business of the Company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the Company, and may exercise all such powers of the Company as are not by the foregoing Act, or by these articles, required to be exercised by the Company in general meeting, subject nevertheless to any regulations of these articles, to the provisions of the foregoing Act, and to such regulations, being not inconsistent with the aforesaid regulations, or provisions, as may be pre-

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scribed by the Company in general meeting ; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56) The continuing directors may act notwithstanding any vacancy in their body.

*Disqualification of Directors.*

(57) The office of director shall be vacated—

if he, or any partner of his, or the firm of which he is a member, holds any other office or place of profit under the Company ;

if he becomes bankrupt or insolvent ;

if he is punished under any of the penal provisions of the foregoing Act ;

if he is concerned in or participates in the profits of any contract with the Company.

But the above rules shall be subject to the following exceptions :—that no director shall vacate his office by reason of his being a member of any Company which has entered into contracts with or done any work for the Company of which he is director ; nevertheless, he shall not vote in respect of such contract or work, and, if he does so vote, his vote shall not be counted.

*Rotation of Directors.*

(58) At the first ordinary meeting after the registration of the Company, the whole of the directors shall retire from office ; and at the first ordinary meeting in every subsequent year, one-third of the directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

(59) The one-third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the Company shall, unless the directors agree among themselves, be determined by ballot. In every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

(60) A retiring director shall be re-eligible.

(61) The Company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62) If, at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place ; and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall continue in office until the ordinary meeting in the next year, and so on from time to time until their places are filled up.

(63) The Company may, from time to time, in general meeting, increase or reduce the number of directors, and may also determine in what rotation such increased or reduced number is to go out of office.

(64) Any casual vacancy occurring in the board of directors may be filled up by the directors, but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

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(65) The Company in general meeting may, by a special resolution, remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

*Proceedings of Directors.*

(66) The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors.

(67) The directors may elect a chairman of their meetings, and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present shall choose some one of their number to be chairman of such meeting.

(68) The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the directors.

(69) A committee may elect a chairman of its meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

(70) A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and, in case of an equality of votes, the chairman shall have a second or casting vote.

(71) All acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

*Dividends.*

(72) The directors may, with the sanction of the Company in general meeting, declare a dividend to be paid to the members in proportion to their shares.

(73) No dividend shall be payable except out of the profits arising from the business of the Company.

(74) The directors may, before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company or any part thereof; and the directors may invest the sum so set apart as a reserved fund upon such securities as they may select.

(75) The directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the Company on account of calls or otherwise.

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(76) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the Company.

(77) No dividend shall bear interest as against the Company.

*Accounts.*

(78) The directors shall cause true accounts to be kept—

of the stock in trade of the Company;

of the sums of money received and expended by the Company, and the matters in respect of which such receipt and expenditure take place; and.

of the credit and liabilities of the Company.

The books of account shall be kept at the registered office of the Company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Company in general meeting, shall be open to the inspection of the members during the hours of business.

(79) Once at the least in every year the directors shall lay before the Company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

(80) The statement so made shall show, arranged under the most convenient heads, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expenses of the establishment, salaries, and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and, in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81) A balance-sheet shall be made out in every year and laid before the Company in general meeting, and such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to this table, or as near thereto as circumstances admit.

(82) A printed copy of such balance-sheet shall, seven days previously to such meeting, be served on every member in the manner in which notices are hereinafter directed to be served.

*Audit.*

(83) Once at the least in every year the accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained by one or more auditor or auditors.

(84) The first auditors shall be appointed by the directors; subsequent auditors shall be appointed by the Company in general meeting.

(85) If one auditor only is appointed, all the provisions herein contained relating to auditors shall apply to him.

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(86) The auditors may be members of the Company ; but no person is eligible as an auditor who is interested otherwise than as a member in any transaction of the Campany ; and no director or other officer of the Company is eligible during his continuance in office.

(87) The election of auditors shall be made by the Company at their ordinary meeting in each year.

(88) The remuneration of the first auditors shall be fixed by the directors ; that of subsequent auditors shall be fixed by the Company in general meeting.

(89) Any auditor shall be re-eligible on his quitting office.

(90) If any casual vacancy occurs in the office of any auditor appointed by the Company, the directors shall forthwith call an extraordinary general meeting for the purpose of supplying the same.

(91) If no election of auditors is made in manner aforesaid, the Local Government may, on the application of not less than five members of the Company, appoint an auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

(92) Every auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

(93) Every auditor shall have a list delivered to him of all books kept by the Company, and shall at all reasonable times have access to the books and accounts of the Company. He may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may, in relation to such accounts, examine the directors or any other officer of the Company.

(94) The auditors shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory. Such report shall be read, together with the report of the directors, at the ordinary meeting.

*Notices.*

(95) A notice may be served by the Company upon any member either personally or by sending it through the post in a letter addressed to such member at his registered place of abode.

(96) All notices directed to be given to the members shall, with respect to any share to which persons are jointly entitled, be given to whichever of such persons is named first in the register of members ; and notice so given shall be sufficient notice to all the holders of such share.

(97) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post ; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

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DR. *Balance-sheet (a) of the Company made up to* 18 CR.

| | Capital and Liabilities. | Rs. | A. | | Property and Assets. | Rs. | A. |
|---|---|---|---|---|---|---|---|
| I. Capital, | Showing— | | | III. Property held by the Company, | Showing— | | |
| | 1 The number of shares ... ... ... | | | | 7 immoveable property—distinguishing— | | |
| | 2 The amount paid per share ... ... ... | | | | (a) Freehold land ... ... ... ... | | |
| | 3 If any arrears of calls, the nature of the arrear and the names of the defaulters | | | | (b) ,, buildings ... ... ... | | |
| | 4 The particulars of any forfeited shares. ... | | | | (c) Leasehold ,, ... ... ... | | |
| II. Debts and Liabilities of the Company, | Showing— | | | | 8 Moveable property—distinguishing— | | |
| | 5 The amount of loans on mortgages or debenture-bonds... ... ... ... | | | | (d) Stock in trade ... ... ... | | |
| | 6 The amount of debts owing by the Company—distinguishing ... ... ... | | | | (e) Plant ... ... ... ... ... | | |
| | (a) Debts for which acceptances have been given ... ... ... ... | | | | The cost to be stated with deductions for deterioration in value as charged to the reserve fund or profit and loss... ... | | |
| | (b) Debts to tradesmen for supplies of stock in trade or other articles ... | | | IV. Debts owing to the Company, | Showing— | | |
| | (c) Debts for law expenses ... ... | | | | 9 Debts considered good for which the Company hold bills or other securities ... | | |
| | (d) Debts for interest on debentures or other loans ... ... ... ... | | | | 10 Debts considered good for which the Company hold no security ... ... ... | | |
| | (e) Unclaimed dividends ... ... ... | | | | 11 Debts considered doubtful and bad ... | | |
| | (f) Debts not enumerated above ... ... | | | | Any debt due from a director or other officer of the Company to be separately stated ... ... ... ... ... | | |
| VI. Reserve Fund, | Showing— | | | | | | |
| | The amount set aside from profits to meet contingencies ... ... ... ... | | | V. Cash and Investments, | Showing— | | |
| VII. Profit and Loss, | Showing— | | | | 12 The nature of investment and rate of interest ... ... ... ... ... | | |
| | The disposable balance for payment of dividends, &c. ... ... ... ... | | | | 13 The amount of cash, where lodged, and if bearing interest ... ... ... ... | | |
| Contingent Liabilities, | Claims against the Company not acknowledged as debts ... ... ... ... | | | | | | |
| | Monies for which the Company is contingently liable ... ... ... ... | | | | | | |

(a) See clauses 81 and 82 of the foregoing Table A.

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## TABLE B.

TABLE OF FEES to be paid to the Registrar of joint stock Companies by a Company having a capital divided into shares:—

| | Rs. | A. | P. |
|---|---|---|---|
| For registration of a Company whose nominal capital does not exceed Rs. 20,000, a fee of ... ... ... ... ... | 40 | 0 | 0 |
| For registration of a Company whose nominal capital exceeds Rs. 20,000, the above fee of forty rupees, with the following additional fees regulated according to the amount of nominal capital; (that is to say)— | | | |
| For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 20,000 rupees up to 50,000 rupees ... | 20 | 0 | 0 |
| For every 10,000 rupees of nominal capital, or part of 10,000 rupees after the first 50,000 rupees up to 10,00,000 rupees ... ... | 5 | 0 | 0 |
| For every 10,000 rupees of nominal capital, or part of 10,000 rupees, after the first 10,00,000 rupees ... ... ... ... | 1 | 0 | 0 |
| For registration of any increase of capital made after the first registration of the Company, the same fees per 10,000 rupees, or part of 10,000 rupees, as would have been payable if such increased capital had formed part of the original capital at the time of registration. | | | |
| Provided that no Company shall be liable to pay in respect of nominal capital on registration, or afterwards, any greater amount of fees than 1,000 rupees, taking into account, in the case of fees payable on an increase of capital after registration, the fees paid on registration. | | | |
| For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company. | | | |
| For registering any document hereby required or authorized to be registered, other than the memorandum of association ... ... | 5 | 0 | 0 |
| For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of ... ... | 5 | 0 | 0 |

## TABLE C. *

TABLES OF FEES to be paid to the Registrar of joint stock Companies by a company not having a capital divided into shares:—

| | Rs. | A. | P. |
|---|---|---|---|
| For registration of a Company whose number of members, as stated in the articles of association, does not exceed 20 ... | 40 | 0 | 0 |
| For registration of a Company whose number of members, as stated in the articles of association, exceeds 20, but does not exceed 100 ... | 100 | 0 | 0 |
| For registration of a Company whose number of members, as stated in the articles of association, exceeds 100, but is not stated to be unlimited, the above fee of Rs. 100 with an additional Rs. 5 for every 50 members, or less number than 50 members, after the first 100. | | | |

* See note to Section 40, *ante* p. 1585.

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| | Rs. | A. | P. |
|---|---|---|---|
| For registration of a Company in which the number of members is stated in the articles of association to be unlimited, a fee of ... | 400 | 0 | 0 |
| For registration of any increase in the number of members made after the registration of the Company, in respect of every 50 members, or less than 50 members, of such increase ... ... | 5 | 0 | 0 |
| Provided that no one Company shall be liable to pay on the whole a greater fee than Rs. 400 in respect of its number of members, taking into account the fee paid on the first registration of the Company. | | | |
| For registration of any existing Company, except such Companies as are by this Act exempted from payment of fees in respect of registration under this Act, the same fee as is charged for registering a new Company. | | | |
| For registering any document hereby required or authorized to be registered, other than the memorandum of association ... ... | 5 | 0 | 0 |
| For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of ... ... | 5 | 0 | 0 |

## FORM D.

FORM OF STATEMENT REFERRED TO IN PART III OF THE ACT.

* The Capital of the Company is Rs. , divided into shares of each.

The number of shares issued is . Calls to the amount of Rs. per share have been made, under which the sum of Rs. has been received.

The liabilities of the Company on the first day of January (*or* July) were :—

Debts owing to sundry persons by the Company :
Under decree, Rs.
On mortgages or bonds, Rs.
On notes, bills, or hundis, Rs.
On other contracts, Rs.
On estimated liabilities, Rs.

The assets of the Company on that day were :—

Government securities [*stating them*], Rs.
Bills of exchange, hundis, and promissory notes, Rs.
Cash at the bankers, Rs.
Other securities, Rs.

## SECOND SCHEDULE.—(SEE SECTION 95).

### FORM A.

Memorandum of association of a Company limited by shares.

1*st*.—The name of the Company is "The Company, Limited."

2*nd*.—The registered office of the Company will be situate in

3*rd*.—The objects for which the Company is established are " and the doing all such other things as are incidental or conducive to the attainment of the above objects."

* If the Company has no capital divided into shares, the portion of the statement relating to capital and shares must be omitted.

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*4th.*—The liability of the members is limited.

*5th.*—The capital of the Company is Rs. divided into shares of Rs. each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names:—

| Names, addresses, and description of subscribers. | Number of shares taken by each subscriber. |
|---|---|
| 1. *A. B.* of ... | |
| 2. *C. D.* " ... | |
| 3. *E. F.* " ... | |
| 4. *G. H.* " ... | |
| 5. *I. J.* " ... | |
| 6. *K. L.* " ... | |
| 7. *M. N.* " ... | |
| Total shares taken ... | |

*Dated the day of*

Witness to the above signatures,

*O. P.* of

## FORM B.

Memorandum and articles of association of a Company limited by guarantee, and not having a capital divided into shares.

*Memorandum of Association.*

*1st.*—The name of the Company is "The Mutual Calcutta Marine Association, Limited."

*2nd.*—The registered office of the Company will be situate in Calcutta.

*3rd.*—The objects for which the Company is established are "the mutual insurance of ships belonging to members of the Company, and the doing all such other things as are incidental or conducive to the attainment of the above objects."

*4th.*—Every member of the Company undertakes to contribute to the assets of the Company, in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges, and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 100.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

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*Names, Addresses, and Descriptions of Subscribers.*

1. *A. B.* of
2. *C. D.* „
3. *E. F.* „
4. *G. H.* „
5. *I. J.* „
6. *K. L.* „
7. *M. N.* „

*Dated the* *day of*

Witness to the above signatures,

*O. P.* of

*Articles of Association to accompany preceding Memorandum of Association.*

(1) The Company, for the purpose of registration, is declared to consist of five hundred members.

(2) The directors hereinafter mentioned may, whenever the business of the association requires it, register an increase of members.

*Definition of Members.*

(3) Every person shall be deemed to have agreed to become a member of the Company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

*General Meetings.*

(4) The first general meeting shall be held at such time, not being more than three months after the incorporation of the Company, and at such place, as the directors may determine.

(5) Subsequent general meetings shall be held at such time and place as may be prescribed by the Company in general meeting; and, if no other time or place is prescribed, a general meeting shall be held on the first Monday in February in every year at such place as may be determined by the directors.

(6) The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(7) The directors may, whenever they think fit, and they shall, upon a requisition made in writing by any five or more members, convene an extraordinary general meeting.

(8) Any requisition made by the members shall express the object of the meeting proposed to be called, and shall be left at the registered office of the Company.

(9) Upon the receipt of such requisition, the directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists or any other five members may themselves convene a meeting.

*Proceedings at General Meetings.*

(10) Seven days' notice at the least, specifying the place, the day and the hour of meeting, and, in case of special business, the general nature of such business, shall be given to the members in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

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(11) All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of consideration of the accounts, balance-sheets, and ordinary report of the directors.

(12) No business shall be transacted at any meeting, except the declaration of a dividend, unless a quorum of members is present at the commencement of such business. Such quorum shall be ascertained as follows, that is to say :—if the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five ; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty ; with this limitation, that no quorum shall in any case exceed thirty.

(13) If, within one hour from the time appointed for the meeting, a quorum of members is not present, the meeting, if convened upon the requisition of the members, shall be dissolved. In any other case, it shall stand adjourned to the same day in the following week, at the same time and place ; and, if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

(14) The chairman (if any) of the directors shall preside as chairman at every general meeting of the Company.

(15) If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of such meeting.

(16) The chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place ; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17) At any general meeting, unless a poll is demanded by at least five members, a declaration by the chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(18) If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs ; and the result of such poll shall be deemed to be the resolution of the Company in general meeting.

*Votes of Members.*

(19) Every member shall have one vote and no more.

(20) If any member is a lunatic or idiot, he may vote by his committee or other legal curator ; if any member is a minor, he may vote by his guardian or any one of his guardians if more than one.

(21) No member shall be entitled to vote at any meeting unless all monies due from him to the Company have been paid.

(22) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointer, or, if such appointer is a corporation, under its common seal.

(23) No person shall be appointed a proxy who is not a member and the instrument appointing him shall be deposited at the registered office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

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(24) Any instrument appointing a proxy shall be in the following form :—

Company, Limited.

I, , of being a member of the Company, Limited, hereby appoint of , as my proxy, to vote for me and on my behalf at the [ordinary *or* extraordinary *as the case may be*] general meeting of the Company to be held on the day of , and at any adjournment thereof [*or* at any meeting of the Company that may be held in the year ].

As witness my hand, this day of

Signed by the said in the presence of

*Directors.*

(25) The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

(26) Until directors are appointed, the subscribers of the memorandum of association shall be deemed to be directors.

*Powers of Directors.*

(27) The business of the Company shall be managed by the directors, who may exercise all such powers of the Company as are not hereby required to be exercised by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

*Election of Directors.*

(28) The directors shall be elected annually by the Company in general meeting.

*Business of Company.*

(*Here insert rules as to mode in which business of insurance is to be conducted*).

*Accounts.*

(29) The accounts of the Company shall be audited by a committee of five members, to be called the audit-committee.

(30) The first audit-committee shall be nominated by the directors out of the body of members.

(31) Subsequent audit-committees shall be nominated by the members at the ordinary general meeting in each year.

(32) The audit-committee shall be supplied with a copy of the balance-sheet, and it shall be their duty to examine the same with the accounts and vouchers relating thereto.

(33) The audit-committee shall have a list delivered to them of all books kept by the Company, and they shall at all reasonable times have access to the books and accounts of the Company.

They may, at the expense of the Company, employ accountants or other persons to assist them in investigating such accounts, and they may, in relation to such accounts, examine the directors or any other officer of the Company.

(34) The audit-committee shall make a report to the members upon the balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing the particulars required by these regulations and properly drawn

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up, so as to exhibit a true and correct view of the state of the Company's affairs, and, in case they have called for explanations or information from the directors, whether such explanations or information have or has been given by the directors, and whether they or it have or has been satisfactory; and such report shall be read together with the report of the directors at the ordinary meeting.

*Notices.*

(35) A notice may be served by the Company upon any member, either personally, or by sending it through the post in a letter addressed to such member at his registered place of abode.

(36) Any notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and, in proving such service, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

*Winding-up.*

(37) The Company shall be wound up voluntarily whenever an extraordinary resolution, as defined by The Indian Companies Act, 1882, is passed, requiring the Company to be wound up voluntarily.

*Names, Addresses, and Descriptions of Subscribers.*

| | | | | | |
|---|---|---|---|---|---|
| 1. | *A.* | *B.* | of | ... | Merchant. |
| 2. | *C.* | *D.* | of | ... | " |
| 3. | *E.* | *F.* | of | ... | " |
| 4. | *G.* | *H.* | of | ... | " |
| 5. | *I.* | *J.* | of | ... | " |
| 6. | *K.* | *L.* | of | ... | " |
| 7. | *M.* | *N.* | of | ... | " |

*Dated the* *day of* 18 .

Witness to the above signatures,

*O. P.* of

---

FORM C.

Memorandum and articles of association of a Company limited by guarantee, and having a capital divided into shares.

*Memorandum of Association.*

*1st.*—The name of the Company is "The Hotel Company, Limited."

*2nd.*—The registered office of the Company will be situate in .

*3rd.*—The objects for which the Company is established are "the facilitating travelling in by providing hotels and conveyances by sea and by land for the accommodation of travellers and the doing all such other things as are incidental or conducive to the attainment of the above objects."

*4th.*—Every member of the Company undertakes to contribute to the assets of the Company in the event of the same being wound up during the time that he is a member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before the time at which he ceases to be a member, and the costs, charges, and expenses of winding-up the same, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required not exceeding Rs. 200.

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We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

*Names, Addresses, and Descriptions of Subscribers.*

1. *A. B.* of
2. *C. D.* of
3. *E. F.* of
4. *G. H.* of
5. *I. J.* of
6. *K. L.* of
7. *M. N.* of

*Dated the* *day of* 18 .

Witnesses to the above signatures,

*O. P.* of

*Articles of Association to accompany preceding Memorandum of Association.*

1. The capital of the Company shall consist of five lakhs of rupees divided into five thousand shares of one hundred rupees each.

2. The directors may, with the sanction of the Company in general meeting, reduce the amount of shares.

3. The directors may, with the sanction of the Company in general meeting cancel any shares belonging to the Company.

4. All the articles of Table A shall be deemed to be incorporated with these articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed agree to take the number of shares in the capital of the Company set opposite our respective names.

| Names, addresses, and descriptions of subscribers. | Number of shares taken by each subscriber. |
|---|---|
| 1. *A. B.* of | |
| 2. *C. D.* of | |
| 3. *E. F.* of | |
| 4. *G. H.* of | |
| 5. *I. J.* of | |
| 6. *K. L.* of | |
| 7. *M. N.* of | |

Total shares taken _____

*Dated the* *day of* 18 .

Witness to the above signatures,

*O. P.* of

FORM D.

Memorandum and articles of association of an unlimited Company having a capital divided into shares.

*Memorandum of Association.*

1*st.*—The name of the Company is "The Patent Company."

2*nd.*—The registered office of the Company will be situate in

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*3rd.*—The objects for which the Company is established are "the working of a patent method of , of which method *O. P.* of is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a Company in pursuance of this memorandum of association.

*Names, addresses, and descriptions of Subscribers.*

1. *A. B.* of
2. *C. D.* of
3. *E. F.* of
4. *G. H* of
5. *I. J.* of
6. *K. L.* of
7. *M. N.* of

*Dated the* *day of* 18 .

Witness to the above signatures,

*Q. R.* of

*Articles of Association to accompany the preceding Memorandum of Association.*

*Capital of the Company.*

The capital of the Company is twenty thousand rupees divided into twenty shares of one thousand rupees each.

*Application of Table A.*

All the articles of Table A shall be deemed to be incorporated with these articles, and to apply to the Company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the Company set opposite our respective names.

| Names, addresses, and descriptions of subscribers. | Number of shares taken by subscribers. |
|---|---|
| 1. *A. B.* of | |
| 2. *C. D.* of | |
| 3. *E. F.* of | |
| 4. *G. H.* of | |
| 5. *I. J.* of | |
| 6. *K. L.* of | |
| 7. *M. N.* of | |

Total shares taken——————————

*Dated the* *day of* 18 .

Witness to the above signatures,

*Q. R.* of

FORM E.

As required by the second part of the foregoing Act.

Summary of capital and shares of the Company made up to the day of

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Nominal capital Rs. , divided into shares of Rs. each.
Number of shares taken up to the day of

There has been called up on each share Rs.
Total amount of calls received, Rs.
Total amount of calls unpaid, Rs.

List of persons holding shares in the Company on the day of , and of persons who have held shares therein at any time during the year immediately preceding the said day of showing their names and addresses and an account of the shares so held.

| Folio in register ledger containing particulars. | Names, Addresses, and Occupations. | | | | Account of Shares. | | | | | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|
| | Surname. | Christian Name. | Address. | Occupation. | Shares held by existing members on the day of | Additional shares held by existing members during preceding year. | | Shares held by persons no longer members. | | |
| | | | | | | Number. | Date of transfer. | Number. | Date of transfer. | |
| | | | | | | | | | | |

NOTE.—RULES FOR THE WINDING-UP OF A COMPANY UNDER THE INDIAN COMPANIES' ACT, 1882.

The following rules, concerning the mode of proceeding to be had for winding-up a Company, which were framed under the Indian Companies' Act, X of 1866, and retain their force under Section 2, Act VI of 1882, are published for the information and guidance of the subordinate Courts of the Punjab. The rules were adopted with slight modifications from those made, under Section 189 of the old Act, by the High Court of Judicature at Fort William in Bengal.

Petition for winding-up of Company.

1. Every petition for the winding-up of any Company by the Court, or subject to the supervision of the Court, shall be intituled " in the matter of The Indian Companies' Act, 1882, and of the " Company to which such petition shall relate, describing the Company by its most usual style or firm.

Petition to be advertised.

2. Every such petition shall be advertised seven clear days before the hearing, once in the *Punjab Gazette*, and, when practicable, once at least in two local newspapers, and also by proclamation affixed to the walls of the Court-house.

The advertisement shall state the day on which the petition was presented, and the name and address of the petitioner and of his pleader or agent (if any).

Petition how to be served.

3. Every such petition shall, unless presented by the Company, be served at the registered office (if any) of the Company, and if there be no registered office then at the principal, or last known principal, place of business of the Company, if any such can be found, upon any member, officer, or servant of the Company there, or in case no such member, officer, or servant can be found there, then by being left at such registered office or principal place of business, or by being served on such member or members of the Company as the Court may direct. Every petition for the winding-up of a Company subject to the supervision of the Court shall also be served upon the liquidator (if any) appointed for the purpose of winding-up the affairs of the Company.

Verification of petition for winding-up.

4. Every petition for the winding-up of any Company by the Court, or subject to the supervision of the Court, shall be verified in the prescribed form. Such verification shall be made by the petitioner, or by one of the petitioners (if more than one), or, if by reason of absence or other good cause any person by whom or on whose behalf such petition is presented is unable himself to do so, the Court may permit some other competent person to

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verify the petition. In case the petition is presented by any Company, the allegations thereof shall be verified by some Director, Secretary, or other principal officer thereof. Such verification shall be made and filed within four days after the petition is presented, and such verified statement shall be sufficient *primâ facie* evidence of the statements in the petition.

Contributory or creditor to be furnished on application with copy of petition.

5. Every contributory or creditor of the Company shall on application to the Court in which the petition is presented be entitled to be furnished with a copy of the petition on payment of the usual and customary fees for copies of documents in such Court, and such copy shall be furnished within twenty-four hours after the same shall have been applied for.

Order for winding-up to be advertised.

6. Every order for the winding-up of a Company by the Court, or subject to its supervision, shall, within twelve days after the date thereof, be advertised by the petitioner once in the *Punjab Gazette*, and otherwise as the Court may direct, and shall be served upon such persons (if any) and in such manner as the Court may direct.

Application for order to proceed with winding-up.

7. Within ten days after the passing of any order for winding-up a Company, the petitioner may apply for an order to proceed with the winding-up, and, in default of such application by the petitioner, any other person interested in the winding-up of the Company may apply to be permitted to have the carriage and prosecution of the order. Upon such application, the Judge shall issue a summons for proceeding with the winding-up of the Company, to be served upon all parties who may have appeared upon the hearing of the petition. Upon the return of such summons a time shall be fixed for the appointment of an official liquidator, for the proof of debts, and for bringing in the list of contributories. Directions may be given as to the advertisements to be issued for all or any of such purposes, and generally as to the proceedings, and the parties to attend thereon. The proceedings under the order shall be continued by adjournment, and, when necessary, by further summons, and any such direction as aforesaid may be given, added to, or varied at any subsequent time, as may be found necessary.

Official liquidator.

8. The Judge may appoint a person to the office of official liquidator, without previous advertisement, or notice to any party, or may fix a time or place for the appointment of an official liquidator, and may appoint or reject any person nominated at such time and place, and appoint any person not so nominated.

Time and place of appointment of official liquidator to be advertised.

9. When a time and place are fixed for the appointment of an official liquidator, such time and place shall be advertised in such manner as the Judge shall direct, so that the first or only advertisement shall be published within fourteen days, and not less than seven days, before the day so fixed.

Security of official liquidator.

10. Every official liquidator shall give security by entering into a recognizance with two or more sufficient sureties, or by depositing Government securities to such amount as the Judge may approve.

Account of official liquidator.

11. The official liquidator shall be appointed by order, and, unless he shall have given security, a time shall be fixed by such order within which he is to do so, and the order shall fix the times or periods at which the official liquidator is to bring into Court his accounts of his receipts and payments, and shall direct that all monies to be received shall be paid into the Bank of Bengal, or into Court, immediately after the receipt thereof, to the account of the official liquidator of the Company, and an account shall be opened accordingly; and if the money is payable into the Bank of Bengal, an office copy of the order shall be lodged with the said Bank.

Security to be certified.

12. When an official liquidator has given security pursuant to the direction in the order appointing him, the same shall be certified by the Judge or Registrar.

When fresh security to be given.

13. The official liquidator shall on each occasion of passing his accounts, and also whensoever the Judge may so require, satisfy the Judge that his sureties are living, and resident in British India, and have not become insolvent or been adjudged bankrupt, and in default thereof he may be required to enter into fresh security or to deposit Government securities within such time and to such amount as shall be directed.

Appointment of official liquidator to be advertised.

14. Every appointment of an official liquidator shall be advertised, in such manner as the Judge shall direct, immediately after he has been appointed and has given security.

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Provisional official liquidator.

15. When it is desired to appoint provisionally an official liquidator, an application for that purpose may, at any time after the presentation of the petition for winding-up the Company, be made by petition without advertisement or notice to any person, unless the Judge shall otherwise direct. Such provisional official liquidator may, if the Judge shall think fit, be appointed without security.

Death or removal of official liquidator.

16. In case of the death, removal or resignation of an official liquidator, another shall be appointed in his room, in the same manner as directed in the case of a first appointment, and the proceedings for that purpose may be taken by such party interested as may be authorized by the Judge to take the same.

Duties of official liquidator.

17. The official liquidator shall, with all convenient speed after he is appointed, proceed to make up, continue, complete and rectify the books of account of the Company; and shall provide and keep such books of account as shall be necessary, or as the Judge may direct, for the purposes aforesaid, and for showing the debts and credits of the Company, including a ledger, which shall contain the separate accounts of the contributories, and in which every contributory shall be debited from time to time with the accounts payable by him in respect of any call to be made, as provided by the said Act and these rules.

Salary of official liquidator.

18. The official liquidator shall be allowed in his accounts, or otherwise paid, such amount by way of salary or remuneration as the Judge may from time to time direct, and the sum so fixed is to cover the expenses of the employment of assistants or clerks by the official liquidator, unless the Judge shall otherwise order. Such salary or remuneration may be fixed either at the time of appointment, or at any time thereafter as the Judge may think fit. Every allowance of such salary or remuneration, unless made at the time of the appointment, or upon passing an account, shall be made upon application for that purpose by the official liquidator, on notice to such persons (if any) and supported by such evidence as the Judge shall require. Provided nevertheless that the Judge may, from time to time, allow any sum he may think fit to the official liquidator on account of the salary or remuneration to be thereafter fixed.

Filing of accounts.

19. The accounts of the official liquidator shall be filed in Court at the times directed by the order appointing him, and at such other times as may from time to time be required by the Judge: and such accounts shall, upon notice to such parties (if any) as the Judge shall direct, be verified and passed in the same manner as a Receiver's accounts.

Advertisement for debts or claims.

20. For the purpose of ascertaining the debts and claims due from the Company, and of requiring the creditors to come in and prove their debts or claims, an advertisement shall be issued at such time as the Judge shall direct. Such advertisement shall fix a time for the creditors to send their names and addresses, and the particulars of their debts or claims, and the names and addresses of their pleaders (if any) to the official liquidator, and appoint a day for adjudicating thereon.

Debts not disputed need not be proved.

21. Creditors whose claims are not disputed, need not attend upon the adjudication, nor prove their debts or claims.

Disputed debts to be proved.

Any creditor, or creditors, receiving notice from the official liquidator that his or their debts or claims are disputed, must come in and prove the same within a time to be specified in the notice.

Debts and claims to be investigated by official liquidator.

22. The official liquidator shall investigate the debts and claims sent in to him, and ascertain, so far as he is able, which of such debts or claims are justly due from the Company, and he shall make out and file in Court a list of all the debts and claims sent in to him, distinguishing which of the debts and claims, or parts of debts and claims, are, in his opinion, justly due and proper to be allowed without further evidence, and which of them, in his opinion, ought to be proved by the creditors; and he shall make and file, prior to the time appointed for adjudication, an affidavit or written statement verified by oath or affirmation setting forth which of the debts and claims, in his opinion, are justly due and proper to be allowed without further evidence, and stating his belief that such debts and claims are justly due and proper to be allowed and the reasons for such belief.

Adjudication of debts and claims.

23. At the time appointed for adjudicating upon the debts and claims, or at any adjournment thereof, the Judge may either allow the debts and claims upon the affidavit or verified statement of the official liquidator, or may require the same, or any of them to be proved by the claimants, and adjourn the adjudication thereon to a time to be then fixed, and the official liquidator shall give notice of such allowance to the creditors whose debts or claims have been allowed.

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Notice to be given to creditors whose claims have been disallowed.

24. The official liquidator shall give notice to the creditors, whose debts or claims have not been allowed upon his affidavit or statement, that they are required to come in and prove the same by a day to be named in the notice, being not less than four days after such notice, and to attend at a time to be therein named, being the time appointed by the advertisement, or by adjournment (as the case may be), for adjudicating upon such debts and claims.

Contingent debts and claims how estimated.

25. The value of all contingent debts and claims admissible to proof shall, as far as is possible, be estimated according to the value thereof, at the date of the order to wind up the Company.

Interest on claims allowed.

26. The interest on such debts and claims as shall be allowed shall be computed as to such of them as carry interest after the rate they respectively carry.

Costs of proving debts or claims.

27. Such creditors as come in and prove their debts or claims, pursuant to notice from the official liquidator, shall be allowed their costs of proof, in the same manner as in the case of debts proved in a suit.

Result of adjudication to be certified by the Judge.

28. The result of the adjudication upon debts and claims shall be stated in a certificate to be signed by the Judge, and certificates as to any of such debts and claims may be made from time to time. All such certificates shall state whether the debts or claims are allowed or disallowed and whether allowed as against any particular assets, or in any other qualified or special manner.

List of contributories.

29. The official liquidator shall, with all convenient speed after his appointment, or at such time as the Judge shall direct, make out and file in Court a list of the contributories of the Company; and such list shall be verified by the oath or solemn affirmation of the official liquidator, and shall, so far as is practicable, state the respective addresses and the number of shares or extent of interest to be attributed to each such contributory, and distinguish the several classes of contributories. And such list may, from time to time, by leave of the Judge, be varied or added to by the official liquidator.

Notice to contributories.

30. Upon the list of contributories being filed in Court, the official liquidator shall obtain an appointment for the Judge to settle the same, and shall give notice in writing of such appointment to every person included in such list, stating in what character, and for what number of shares or interest such person is included in the list, and in case any variation or addition to such list shall at any time be made by the official liquidator, a similar notice in writing shall be given to every person affected by such variation or addition. All such notices shall be served four clear days before the day appointed to settle such list or such variation or addition.

List of contributories to be certified by the Judge.

31. The result of the settlement of the list of contributories shall be stated in a certificate signed by the Judge; and certificates may be made from time to time for the purpose of stating the result of such settlement down to any particular time, or as to any particular person, or stating any variation of the list.

Sale of moveable or immoveable property belonging to Company.

32. Any moveable or immoveable property belonging to the Company may be sold, with the approbation of the Judge in such manner as the Judge shall direct, and the Judge may on any sale by public auction, fix a reserve bidding, and unless on account of the small amount of the purchase monies, or other cause, it shall, having regard to the amount of security given by the official liquidator, be thought proper that the purchase monies shall be paid to him, all conditions and contracts of sale shall provide that the purchase monies shall be paid by the respective purchasers into the Bank of Bengal or into Court to the account of the official liquidator of the Company.

Application to make call on contributories.

33. Every application to the Court to make any call on the contributories, or any of them, for any purpose authorized by the said Act, shall be made by petition stating the proposed amount of such call, and such petition shall be served four clear days at the least before the day appointed for making the call on every contributory affected by such call, or if the Judge shall so direct, in lieu of service of notice, on the individual contributories or any of them. Notice of such intended call may be given by advertisement or such other public notification as the Judge in his discretion may think sufficient.

Copy of order for a call to be served on each contributory.

34. When any order for a call has been made, a copy of such order shall be forthwith served upon each of the contributories included in such call, together with a notice from the official liquidator specifying the amount due from such contributory in respect of such call; but such order need not be advertised unless for any special reason the Judge shall so direct.

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Adjournment of proceeding.

35. At the time of making an order for a call, the further proceedings relating thereto shall be adjourned to a time subsequent to the day appointed for the payment thereof, and afterwards from time to time so long as may be necessary; and at the time appointed by any such adjournment, or upon a summons to enforce payment of the call duly served and upon proof of the service of the order and notice of the amount due and non-payment, an order may be made for all or any of the contributories who made default to pay the sum which by such former order and notice they were respectively required to pay, or any less sum which may appear to be due from them respectively.

Delay in the payment of monies by the official liquidator.

26. If any official liquidator shall not pay all the monies received by him into the Bank of Bengal or the Court to the account of the official liquidator of the Company within seven days next after the receipt thereof, unless the Judge shall have otherwise directed, such official liquidator shall be charged in his account with five rupees in every thousand rupees, and a proportionate sum for any larger amount retained in his hands beyond such period, for every seven days during which the same shall have been so retained, and the Judge may for any such retention disallow the salary or remuneration of such official liquidator.

Bills, hundis, &c., to be deposited in the Bank of Bengal or in Court.

37. All bills, hundis, notes, and other securities payable to the Company or to the official liquidator thereof shall as soon as they shall come to the hands of such official liquidator, be deposited by him in the Bank of Bengal or in Court, for the purpose of being presented for acceptance and payment, or for payment only, as the case may be, or shall be dealt with as the Court shall otherwise order.

Payments of calls, &c., how to be made.

38. All orders for payment of calls, balances, or other monies due from any contributory or other person shall direct the same to be paid into the Bank of Bengal or into Court to the account of the official liquidator of the Company, unless, on account of the smallness of the amount or other cause, it shall (having regard to the amount of the security given by the official liquidator) be thought proper to direct payment thereof to the official liquidator. Provided that where any such order has been made directing payment of a specific sum into the Bank of Bengal or into Court, in case it shall be proper for the purpose of enabling the official liquidator to issue execution or take other proceedings to enforce the payment thereof, or for any other reason, an order may either before service of such former order or after the time thereby fixed by payment, be made without notice for payment of the same sum to the official liquidator.

Payments how to be credited.

39. All monies, bills, hundis, notes and other securities paid and delivered into the Bank of Bengal or into Court, shall be placed to the credit of the account of the official liquidator of the Company, and orders for any such payment and delivery shall direct the same accordingly.

On what authority monies, &c., to be delivered by Bank.

40. All bills, hundis, notes and other securities delivered into the Bank of Bengal or into Court, shall be delivered out upon a request signed by the official liquidator, and countersigned by the Judge, or the Registrar under the orders of the Court, and monies placed to the account of the official liquidator shall be paid out upon cheques, or orders, signed by the official liquidator and countersigned by the Judge, or the Registrar under the orders of the Court.

Investment of monies.

41. All or any part of the money for the time being standing to the credit of the account of the official liquidator at the Bank of Bengal, or in Court, and not immediately required for the purposes of the winding-up may be invested in the purchase of Government promissory notes, bearing interest, in the name of the official liquidator. All such investments shall be made upon a request signed by the official liquidator, and countersigned by the Judge, which request shall be sufficient authority for debiting the account with the purchase money. Such Government promissory notes shall not afterwards be sold or transferred, or otherwise dealt with, except upon a direction for that purpose signed by the official liquidator, and countersigned by or under an order to be made by the Judge.

Interest upon investments.

42. All interest to accrue due upon any such Government promissory notes shall from time to time be received by the Bank of Bengal, or the Court, and placed to the credit of the account of such official liquidator.

Notice to be given of meeting of creditors or contributories.

43. When the Judge shall direct a meeting of the creditors or contributories of the Company to be summoned under the 112th or 165th Section of the said Act,* the official liquidator shall give notice in writing, seven clear days before the day appointed for such meeting, to every creditor or contributory, of the time and place appointed

* i. e. Act X of 1866.

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for such meeting, and of the matter upon which the Judge desires to ascertain the wishes of the creditors or contributories; or if the Judge shall so direct, such notice may be given by advertisement, in which case the object of the meeting need not be stated.

Votes may be given personally or by proxy.

44. The votes of the creditors or contributories of the Company at any meeting summoned by the direction of the Judge may be given either personally or by proxy.

Appointment of chairman at meetings.

45. The direction of the Judge for any meeting of creditors or contributories under the 112th or 165th Section of the said Act,* and the appointment of a person to act as chairman of any such meeting, shall be testified by a memorandum signed by the Judge, or by the Registrar under the direction of the Judge.

Drawing, accepting, &c., of bills.

46. The sanction of the Judge to the drawing, accepting, making or endorsing of any bill of exchange, hundi or promissory note, by any official liquidator, shall be testified by a memorandum on such bill of exchange, hundi or promissory note signed by the Judge, or by the Registrar under the direction of the Judge.

Compromises.

47. Every application for the sanction of the Judge to a compromise with any contributory or other person indebted to the Company, shall be supported by the affidavit or affirmation of the official liquidator, that he has investigated the affairs of such contributory or person, and stating his belief that the proposed compromise will be beneficial to the Company, and his reason for such belief, and the sanction of the Judge thereto shall be testified by a memorandum signed by the Judge, on the arrangement of compromise, unless any party shall desire to appeal from the decision of the Judge, in which case an order shall be drawn up for the purpose.

Sanction of Judge to proceedings how obtained.

48. The direction or sanction of the Judge for any other proceeding or act to be taken or done by the official liquidator, shall be obtained upon petition.

Applications to be by petition.

49. Every application under the 153rd or 154th or 187th Section of the said Act * shall be made by petition.

Advertisement how to be published.

50. When an adertisement is required for any purpose, the advertisement, except when otherwise directed by these rules, shall be published as the Judge shall direct, or it may take the form of a public notification or proclamation.

Cost of proving documents.

51. Any party to any proceeding relating to the winding-up of a Company may, by notice in writing, call on any other party thereto competent to admit the same, to admit any document, saving all just exceptions, and in case of refusal or neglect so to admit, the cost of proving such document shall be paid by the party so refusing or neglecting, unless the Judge shall be of opinion that the refusal to admit was reasonable. No cost of proving any document shall be allowed unless such notice shall have been given, except in cases where the omission to give such notice has been, in the opinion of the Judge, a saving of expense.

Affidavits intended to be used to be filed in Court.

52. When an order shall have been made for the winding-up of any Company, any person intending to use any affidavit in any proceeding under any such order, shall file the same in Court, and give notice thereof to the official liquidator.

Register of proceedings.

53. A register shall be kept by the Court of all proceedings before the Court in each matter with proper dates, so that all the proceedings may appear consecutively and in chronological order, with a short statement of the question or points decided, or ruled at every hearing.

Inspection of accounts by contributories and creditors.

54. Every contributory of the Company, and every creditor thereof whose debt or claim has been allowed, shall be entitled, at all reasonable times, to inspect all books of accounts, papers or documents relating to the winding-up of the Company, in the custody of the official liquidator free of charge, and at his own expense to take copies or extracts from the same, or to be furnished with such copies or extracts at a rate not exceeding four annas per folio of ninety words.

Rules applicable to provisional liquidators.

55. All the above rules relating to official liquidators shall, so far as the same are applicable, and subject to the directions of the Judge in each case, apply to provisional liquidators.

* i.e. Act X of 1866.

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Cost of attendance of contributories or creditors at proceedings.

56. Every person for the time being on the list of contributories of the Company as filed in Court by the official liquidator, and every person whose debt or claim against the Company shall have been allowed by the Judge, shall be at liberty, at his own expense, to attend the proceedings before the Judge, and shall be entitled, upon payment of the costs occasioned thereby, to have notice of all such proceedings as he shall by written request desire to have notice of; but if the Judge shall be of opinion that the attendance of any such person upon any proceeding has occasioned any additional costs which ought not to have been borne by the funds of the Company, he may direct such costs, or a gross sum in lieu thereof, to be paid by such person; and such person shall not be entitled to attend any further proceedings until he has paid the same.

Appointment of one or more contributories or creditors as representatives of other contributories or creditors.

57. The Judge may from time to time appoint any one or more of the contributories or creditors, as he think fit, to represent before him, at the expense of the Company, all or any class of the contributories or creditors upon any question as to a compromise with any of the contributories or creditors, or in and about any other proceedings before him relating to the winding-up of the Company, and may remove the person or persons so appointed. In case more than one person shall be so appointed, they shall employ the same attorney, pleader, or agent to represent them.

Only contributories or creditors whose names are entered are entitled to attend proceedings.

58. No contributory or creditor shall be entitled to attend any proceedings before the Judge, unless and until he has entered in a book to be kept there for that purpose his name and address and the name and address of his attorney, pleader or agent (if any) and upon any change of his address or of his attorney, pleader or agent, his new address, and the name and address of his new attorney, pleader or agent.

Service upon contributories and creditors how effected.

59. Service upon contributories and creditors shall be effected (except when personal service is required) by sending the notice or copy of the petition, summons, order, or other proceeding, through the post in a registered letter addressed to the party or his attorney, or pleader or agent at the address entered, or last entered, pursuant to the preceding rule, or if no such entry has been made, then, if a contributory, to his last known address or place of abode, and if a creditor, to the address given by him pursuant to Rule 20, and such notice, or copy, summons, order, or other proceeding shall be considered as served at the time the same would be delivered in the due course of post.

Official liquidator to present balance sheet upon termination of proceedings.

60. Upon the termination of the proceedings for the winding-up of any Company, a balance sheet shall be brought in by the official liquidator of his receipts and payments duly verified by his oath or affirmation. The official liquidator shall pass his final account, and the balance (if any) due thereon shall be certified by the Judge, and upon payment of such balance, in such manner as the Court shall direct, the recognizance entered into by the official liquidator and his sureties may be vacated.

Judge when to certify that Company has been completely wound up.

61. When the official liquidator has passed his final account, and the balance (if any) certified to be due thereon has been paid in such manner as the Court shall direct, a certificate shall be made by the Judge that the affairs of the Company have been completely wound up, and in case the Company has not been already dissolved, the official liquidator shall, immediately after the issue of such certificate, apply to the Judge for an order that the Company be dissolved from the date of such order.

When winding-up complete, books, &c., to be deposited in Court.

62. When the proceedings for winding-up any Company have been completed, all books, papers and documents belonging or appertaining to the Company, and the book containing the official liquidator's account, shall be deposited in Court.

Forms.

63. The forms prescribed for use under these rules shall be used with such variation as the circumstances of each case may require.

Taxation of costs.

64. Where an order is made in the Chief Court for payment of any costs, the order shall direct the taxation thereof by the Registrar, except in cases where a gross sum in lieu of taxed costs is fixed by the order.

Procedure.

65. The general practice of the Court shall, in cases not provided for by the Indian Companies' Act, 1882, or these rules, and, so far as the same are applicable and not inconsistent with the said Act or these rules, apply to all proceedings for winding-up a Company in any Court.

Rules to take effect from what date.

66. These rules shall take effect and come into operation on and after the 1st of June 1870.

*(Judicial Circular No. CXXXIII.)*

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## FORMS.

*No. 1.—Advertisement of Petition. (Rule 2).*

NOTICE is hereby given, that a petition for the winding-up of the above-named Company by the Court (*or*, subject to the supervision of the Court) was, on the day of 18 presented to the Court of by the said Company or by A. B of a creditor (or contributory) of the said Company (*or, as the case may be*). And that it has been directed that the said petition shall be heard before the said Court on the day of 18 ; and any creditor or contributory of the said Company desirous to oppose the making of an order for the winding-up of the said Company under the above Act, should appear at the time of hearing, by himself or advocate, attorney, or pleader for the purpose : and a copy of the petition will be furnished to any creditor or contributory of the said Company requiring the same, on application to the said Court on payment of the charges for the same.

Petitioner in person, or C. and D. of, &c.

Attorney or Pleader, Agents for the Petitioner.

*No. 2.—Verification of Petition. (Rule 4).*

I, A. B. of &c., make oath (*or* solemnly affirm) and say that such of the statements in the petition now produced and shown to me, and marked with the letter A, as relate to my own acts and deeds are true, and such of the said statements as relate to the acts and deeds of any other person or persons, I believe to be true.

*Sworn, &c.*

*No. 3.—Order for winding-up by the Court.*

Upon the petition of the above-named Company [*or* A. B. of, &c., a creditor (*or* contributory) of the above-named Company] on the day of 18 and the verification thereof by A. B., &c., filed &c., and upon hearing the advocate or attorney or pleader of the petitioner, and for , and upon reading the "*Punjab Gazette*" of the day of the newspaper of the day of (*enter any other papers*) each containing an advertisement of the said petition, this Court doth order that the said Company be wound-up by this Court under the provisions of the Indian Companies' Act, 1882.

*No. 4.—Order for winding-up subject to supervision.*

Upon the petition, &c., this Court doth order that the voluntary winding-up of the said Company be continued, but subject to the supervision of this Court, and any of the proceedings under the said voluntary winding up may be adopted as the Court shall think fit. And the creditors, contributories, and liquidators of the said Company, and all other persons interested are to be at liberty to apply to the Court as there may be occasion.

*No. 5.—Advertisement of Order to wind-up. (Rule 6).*

By an order made by the Court of in the above matter, dated the day of 18 , on the petition of the above named Company (*or* A. B. of ). It was ordered that, &c., (*as in order*).

Petitioner in person, or C. and D. of, &c.

Attorneys or Pleaders for the said Petitioner.

*No. 6.—Advertisement of time and place fixed for the appointment of Official Liquidator.*

*(Rule 9).*

Notice is hereby given, that Mr. Justice (*or* the Court of ) has fixed the day of 18 , at o'clock at as the time and place for the appointment of an Official Liquidator of the above-named Company.

G. H.

*Judge or Registrar.*

*No. 7.—Proposal for appointment of Official Liquidator (and Sureties) where Form No. 6 has been issued.*

We undersigned contributories of the above-named Company, for the number of shares placed opposite our respective names, hereby propose Mr. W. T. of (Public Accountant), to be Official Liquidator of the said Company (and H. N. of &c., and J. P. of &c., to be his sureties).

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| Name. | Address. | Number of shares held. |
|---|---|---|

*No. 8.—Order appointing an Official Liquidator. (Rules* 10, 11).

Upon the application, &c., and upon reading, &c. The Court doth hereby appoint R. P. H. of &c., Official Liquidator of the above-named Company. (*If security has not been, given, add*) And it is ordered that the said R. P. H. do, on or before the day of next, (give security to be approved of by the Court). And it is ordered that the said R. P. H. do on the day of and day of 18 , and the same day in each succeeding year, file his accounts in the Court of . And it is ordered that all monies to be received by the said R. P. H. be paid by him into the Bank of Bengal or into the Court of to the credit of the account of the Official Liquidator of the said Company, within seven days after receipt thereof. (*In case two or more Official Liquidators are appointed, add*) And the Court doth declare that the following acts, required or authorized by the above Act to be done by the Official Liquidator, may be done by either (*or* any one *or* two) of the Official Liquidators hereby appointed, that is to say, (*describe the acts*), and that all other acts so required or authorized shall be done by both (*or* all) the Official Liquidators hereby appointed.

*No. 9.—Order appointing a Provisional Official Liquidator. (Rules* 10, 11, 15, 55).

Upon the application, &c., and upon reading &c. The Court doth hereby appoint R. P. H. of &c., provisionally Official Liquidator of the above named Company. (*If security dispensed with add*), without security, (or *if security is to be given, add directions as to security, accounts, and payments into Bank as in form No.* 8). And the Court doth hereby limit and restrict the powers of the said R. P. H. as such provisional Official Liquidator, to the following acts, that is to say, (*describe the acts which the provisional Official Liquidator is to be authorized to do*).

*No.* 10.—*Recognizance of the Official Liquidator and Sureties. (Rule* 10).

R. P. H. of &c., W. B. of &c., and T. P. of &c., before the Court of personally appearing, do acknowledge themselves and every one of them doth acknowledge himself, to owe to Mr. Justice a Judge of the said Chief Court (*or* to Mr. A. B., Judge of the said Court of ) the respective sum set opposite to their respective names in the schedule hereto, to be paid to the said Mr. Justice (*or* to the said Mr. A. B. *as the case may be*), or his executors or administrators, and in default of payment of the said sums, the said R. P. H., W. B. and T. P. are willing and agree, and every of them is willing and doth agree for himself, his heirs, executors and administrators, by these presents that the said sum shall be levied recorded, and received of and from and every of them, and of and from the moveable and immoveable property of them and every of them, wheresoever the same shall be found.

Dated the day of 18

Whereas, in the matter of &c., (*take title from order to wind-up*) Mr Justice (*or* the Court of )has by an order dated the day of 18 , appointed the said R. P. H. Official Liquidator of the said Company, and has hereby directed him to give security to be approved of by the said Judge (*or in case the security precedes the order appointing*) has approved of the said R. P. H. as a proper person to be appointed Official Liquidator of the said Company upon his giving security. And whereas the said Judge has approved of the said W. B. and T. P. to be securities for the said R. P. H. in the amounts set opposite to their respective names in the schedule hereto, and has also approved of the above written recognizance, with the under-written condition, as proper security to be entered into by said R. P. H., W. B., and T. P., pursuant to the said order, and in testimony of such approbation the Judge (or Registrar) hath signed an allowance in the margin hereof. Now the condition of the above written recognizance is such that if the said R. P. H., his executors or administrators, or any of them, do and shall duly account for what the said R. P. H. shall receive, or become to pay, as Official Liquidator of the said Company, at such periods and in such manner as the said Judge shall appoint, and pay the same as the said Judge hath (by the said order) directed or shall hereafter direct, then the above recognizance to be void, otherwise to remain in full force and virtue.

*In the matter &c.,* Mr. Justice or the Court of has approved of and allowed this recognizance.

G. H.
*Judge or Registrar.*

The schedule above referred to.

| | |
|---|---|
| R. P. H. | Ten thousand Rupees |
| W. B. | Ten thousand Rupees |
| T. P. | Ten thousand Rupees |

Taken and acknowledged by the above-named R. P. H., &c., &c.

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*No. 11.—Affidavit of Sureties. (Rule 10).*

We, W. B. of &c., and T. P. of &c., severally make oath (*or* solemnly affirm), and say as follows :—

1. I, the said W. B., for myself say, that I am worth the sum of Rupees over and above what is sufficient for the payment of all my just debts and liabilities

2. And I, the said T. P. for myself say that I am worth the sum of Rupees &c., (*as above*).

Sworn, &c.,

*No. 12.—Sanction of appointment of Attorney or Vakil to Official Liquidator, and appointment (Section 118).*

To the Judge of (*or* Court of ). Sanctions Official Liquidator appointing an Attorney or Vakil to assist him in the performance of his duties.

G. H.,
*Judge or Registrar.*

I hereby appoint Mr. C. of &c., to be my Attorney [or Vakil] in this matter.

Dated this day of 18 .

*R. P. H., Official Liquidator.*

*No. 13.—Order for payment of money or delivery of Books, &c., to Official Liquidator. (Sections 121, 122).*

Upon the application of, &c., and on reading, &c., It is ordered, that A. B. of &c., do within four days after service hereof, pay to [*or* deliver, convey, surrender, or transfer to or unto the hands of] R. P. H. the Official Liquidator of the said Company, at the office of the said R. P. H. situate at, &c., the sum of Rupees being the amount of debts appearing to be due from the said A. B. on his account with the said Company [*or* any sum or balance, books, papers, estate, or effect ] [*or specifically describe the property*] now being in the hands of the said A. B., and to which the said Company is *primâ facie* entitled [*or otherwise as the case may be*].

*No. 14.—Advertisement of appointment of Official Liquidator. (Rule 14.)*

The Court of has, by an order dated the day of 18 , appointed R. P. H. of to be Official Liquidator of the above-named Company.

Dated this day of 18

G. H.
*Judge or Registrar.*

*No. 15.—Advertisement for creditors. (Rule 20).*

The creditors of the above-named Company are required on or before the day of 18 , to send their names and addresses, and the particulars of their debts or claims, and the names and addresses of their attorneys, if any, to R. P. H., of the Official Liquidator of the said Company, and, if so required by notice in writing from the said Official Liquidator, or by their attorneys or pleaders, to come in and prove their said debts or claims, at the Court of at such time as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution made before such debts are proved.

The day of 18 , o'clock at is appointed for hearing and adjudicating upon the debts and claims.

Dated this day of 18 .

G. H.
*Judge or Registrar.*

*No. 16.—Affidavit of Official Liquidator as to debts and claims. (Rule 22).**

I, R. P H., of &c., the Official Liquidator of the above-named Company, make oath [or solemnly affirm] and say as follows :—

1. I have , in the paper writing now produced and shown to me, and marked with the letter A, set forth a list of all the debts and claims the particulars of which have been sent in to me by persons making claims upon, or claiming to be creditors of, the said Company, pursuant to the advertisement issued in that behalf, dated the day of 18 and the names and addresses of the persons by whom such claims are made.

* When a verified written statement is put in, this and the next form may be altered, so as to meet the requirements of the case.

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2. I have investigated the said debts and claims and examined the same with the books and documents of the said Company, in order to ascertain, so far as I am able, which of such debts and claims are justly due from the said Company; and I have in the first part of the same list, set forth such of the said debts and claims, or parts thereof, as, in my opinion, are justly due from the said Company, and proper to be allowed without further evidence; and I have in the sixth column of the said first part of the said list, set forth the amounts proper to be allowed in respect of such debts and claims, and I believe that such amounts respectively are justly due and proper to be allowed; and I have in the seventh column of the said first part of the said list, stated my reasons for such belief.

3. I have, in the second part of the said list, set forth such of the said debts and claims as, in my opinion, ought to be proved by the respective creditors.

(Sworn, or affirmed, &c.)

*No. 17.—Exhibit referred to in affidavit No. 16.*

A.

*List of debts and claims of which the particulars have been sent in to the Official Liquidator.*

This paper writing marked A. was produced and shown to R. P. H., and is the same as is referred to in his affidavit, sworn before me this day of 18 .

W. B., &c.

FIRST PART.—*Debts and claims proper to be allowed without further evidence.*

| Serial No. | Names of Creditors. | Addresses and Descriptions. | Particulars of Debt or Claim. | Amount claimed. | | | Amount proper to be allowed. | | | Reasons for belief that amounts are proper to be allowed. |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | Rs. | As. | P. | Rs. | As. | P. | |
| | | | | | | | | | | |

SECOND PART.—*Debts and claims which ought to be proved by the Creditors.*

| Serial No. | Names of Creditors. | Addresses and Descriptions. | Particulars of Debt or Claim. | Amount claimed. | | |
|---|---|---|---|---|---|---|
| | | | | Rs. | As. | P. |
| | | | | | | |

*No 18.—Notice to creditor of allowance of debt. (Rule 23).*

SIR, (*Place and date*).

The debt claimed by you in this matter has been allowed by the Judge at the sum of Rs. [*if part only allowed, add*—If you claim to have a larger sum allowed you are hereby required to come in and prove the further amount claimed, &c., *as in next Form*].

I am, &c.,
*R. P. H., Official Liquidator.*

To MR. P. R.

*No. 19.—Notice to creditors to come in and prove their debts. (Rule 24).*

You are hereby required to come in and prove the debts claimed by you against the above named Company by filing your affidavit or affirmation, and giving notice thereof to me on or before the day of next, and you are to attend by your attorney or pleader at the Court of on the day of 18 at o'clock in the being the time appointed for hearing and adjudicating upon the claim.

Dated this day of 18 .

To MR. S. T. *R. P. H., Official Liquidator.*

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*No. 20.—Affidavit of creditor in proof of debt.* (*Rule 24*).

I, S. T., of &c., make oath [*or* solemnly affirm] and say as follows :—

1. The above-mentioned Company was, on the day of 18 the date of the order for winding-up the same, and still is indebted to me in the sum of Rs. for &c., [*Describe shortly the nature of the debt, and exhibit any security for it; and in the case of a trade debt, exhibit a bill of parcels, and verify the reasonableness of the charges as in proving a debt in a suit*].

2. I have not, nor hath, nor have any person or persons by my order, or to my knowledge or belief, for my use received the said sum of Rs. or any part thereof, or any security or satisfaction for the same or any part thereof [*if any security, add* except the said (*describe the security*) hereinbefore mentioned or referred to].

Sworn, &c.

*No. 21.—Certificate of Judge as to debts and claims.* (*Rule 28*).

I hereby certify that the result of the adjudication upon debts and claims against the above-named Company, brought in pursuant to the advertisement issued in that behalf, dated the day of 18 , so far as such adjudication has up to the date of this certificate been proceeded with, is as follows :—

The debts and claims which have been allowed are set forth in the first schedule hereto, and with the interest thereon and costs mentioned in the said schedule, as due to the persons therein named, amount altogether to rupees

I have in the first part of the said schedule set forth such of the said debts and claims as carry interest, and the interest thereon has been computed after the rate they respectively carry down to the date of this certificate.

I have in the second part of the said schedule, set forth such of the said debts and claims as do not carry interest.

The claims set forth in the second schedule hereto, have been brought in by the persons therein named, and have been disallowed.

The evidence produced, &c.

*The first Schedule above referred to.*

FIRST PART.—*Debts and claims which carry interest.*

| No. | Names of Creditors. | Addresses and Descriptions. | Particulars of Debt. | Total due. |
|---|---|---|---|---|
| 1 | J. L. | 29 Street, Calcutta, Boot-maker, | On Bill of Exchange, dated, &c. ... | Rs. As. P. |
| | | Principal ... ... ... | Rs. ... | |
| | | Interest at Rs. per cent per annum from 18 , to the date of this certificate ... ... | ,, | |
| | | Costs of proof ... ... ... | ,, | |
| | | | Total First Part, Rs. | |

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SECOND PART.—*Debts and claims which do not carry interest.*

| No. | Names of Creditors. | Adresses and Descriptions. | Particulars of Debt. | * Interest on Principal. | Total due. |
|---|---|---|---|---|---|
| 40 | W. P. ... | 15 Street, Calcutta, Baker, | Goods sold | | |
| | | Principal ... ... | Rs. 500 0 0 | 20 0 0 | 540 0 0 |
| | | Costs of Proof... ... ... | „ 20 0 0 | | |
| | | | Total Rs. ... | | |
| | | | Add Total First Part, Rs. | | |
| | | | Total First and Second Parts, Rs. | | |

*The Second Schedule above referred to —*

| No. | Names of Creditors. | Addresses and Descriptions. | Particulars of claims. | Amount claimed. |
|---|---|---|---|---|

Dated this day of 18 .

*No. 22.—Affidavit in support of List of Contributories.* (*Rule* 29.)

I, R. P. H., of &c., the Official Liquidator of the above named Company, make oath, [or solemnly affirm,] and say as follows :—

1. The paper writing now produced and shown to me, and marked with the letter A contains a list of the contributories of the said Company, made out by me from the books and papers of the said Company, together with their respective addresses, and the number of shares [or extent of interest] to be attributed to each, and such list is, to the best of my knowledge information, and belief, a true and accurate list of the contributories of the said Company, so far as I have been able to make out and ascertain the same.

2. I have, in the first part of the said list, marked A, distinguished the persons who are contributories in their own right.

3. I have, in the second part of the said list, marked A, distinguished the persons who are contributories as being representatives of, or being liable to, the debts of others.

Sworn, &c.

No. 23.—*List of contributories referred to in Form No. 22.*

A.

This list of contributories marked A, was produced and shown to R. P. H., and is the same list of contributories as is referred to in his affidavit sworn before me, this day of 18 .

W. B., &c.

FIRST PART.—*Contributories in their own right.*

| Serial No. | Name. | Address. | Description. | In what character included. | Number of shares (or extent of interest). |
|---|---|---|---|---|---|

* To be computed at the rate of 6 per cent per annum from the date of the winding-up order.

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SECOND PART.—*Contributories as being representatives of, or liable to the debts of others.*

| Serial No. | Name. | Address | Description. | In what character included. | Number of shares (or extent of interest). |
|---|---|---|---|---|---|

No. 24.—*Notice to contributories of appointment to settle List of Contributories.* (*Rule 29*).

The Court [or Mr. Justice ] has appointed the day of 18 , at o'clock to settle the list of the contributories of the above named Company, made out by the Official Liquidator of the said Company, and you are included in such list in the character, and for the number of shares [*or* extent of interest] stated below; and if no sufficient cause is shown by you to the contrary at the time and place aforesaid, the list will be settled including you therein.

*Dated this day of* 18 .

To Mr. A. B. and to Mr. C. D. his Attorney, Pleader, or Agent.

R. P. H.,
*Official Liquidator.*

| No. on List. | Name. | Address. | Description. | In what character included. | Number of shares (or extent of interest). |
|---|---|---|---|---|---|

*No. 25.—Affidavit of service of notice.* (*Rule 30*).

I, W. S., &c., the attorney of the Official Liquidator of the above named Company, make oath [or solemnly affirm] and say as follows:—

1. The first six columns of the schedule now produced and shown to me, and marked with the letter A. contain a true copy of the list of contributories of the said Company made out and filed in Court by the said Official Liquidator on the day of 18 as I know from having, on the day of 18 examined and compared the said schedule with the said list, and I have, in the seventh column of the said schedule marked A, set forth the names and addresses of the attorneys who have entered appearances for any of the contributories named in the said list.

2. I did on the day of 18 in the manner hereinafter mentioned, cause a true copy of the notice now produced and shown to me, and marked B, to be served upon each of the respective persons whose names, addresses, and descriptions appear in the second, third, and fourth columns of the said schedule marked A, except that in the tabular form at the foot of such copies respectively I inserted the number on list, name, address, description, in what character included, and number of shares [*or* extent of interest] of the persons on whom such copy of the said notice was served in the same words and figures as the same particulars are set forth in the said schedule marked A.

3. I caused the said respective copies of the said notice to be served by putting such copies respectively, duly addressed to such persons respectively, or their attorneys, pleaders or agents, and with the proper postage stamps affixed thereto as registered letters into the Post Office at on the said day of

Sworn, &c.,

*Schedule referred to:—*

| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| No. on List. | Name. | Address. | Description. | In what character included. | No. of share (*or* extent of interest). | Names and addresses of attorneys who have entered appearances and been served with a copy of the notice referred to in the affidavit of W. S. to which this schedule is an exhibit. |

*No. 26.—Supplemental List of Contributories, and affidavit in support.* (*Rule 29*).

I, R. P. H., of &c., the Official Liquidator of the above named Company, make oath [*or* solemnly affirm] and say as follows:—

1. Since filing in Court the list of the contributories in the matter, on the day of 18 it has come to my knowledge that the several persons whose names are set forth in the supplemental list of contributories now produced and shown to me

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and marked with the letter B, are or have been holders of shares in [ *or* members of ] the said Company, and to the best of my judgment, information, and belief such persons are contributories of the said Company.

2. The said supplemental list marked B contains the names of such persons together with their respective addresses and the number of shares [ *or* extent of interest ] to be attributed to each, and such list is to the best of my knowledge, information, and belief, true and accurate.

3. I have, in the first part of the said list marked B, distinguished such of the said persons as are contributories in their own right.

4. I have, in the second part of the said list marked B, distinguished such of the said persons as are contributories as being representatives of, or being liable to the debts of others.

Sworn, &c.

NOTE.—The supplemental list of contributories is to be made out in the same form as the original list in form No. 23.

*No. 27.—Certificate of Judge of Settlement of the List of Contributories. (Rule 31).*

1. I hereby certify that the several persons whose names are set forth in the second column of the first schedule hereto have been included in the said list of contributories as contributories of the said Company in respect of the number of shares (*or* extent of interest) set opposite the names of such contributories respectively in the said schedule.

In the first part of the said schedule are the names of the several persons contributories in their own right.

In the second part of the said schedule are the names of the persons who are contributories as being representatives of or liable to the debts of others.

2. The persons whose names are set forth in the second column of the second schedule hereto have been excluded from the list of contributories.

3. In the seventh column of the said first and second schedules are set forth, opposite the name of each of the said several persons respectively, the date when such person was included in, or excluded from, the said list of contributories.

*The first Schedule above referred to :—*

FIRST PART.—*Contributories in their own right.*

| Serial No. in list. | Name. | Address. | Description. | In what character included. | No. of shares (*or* extent of interest). | Date when included in the list. |
|---|---|---|---|---|---|---|

SECOND PART.—*Contributories as being representatives of, or liable to, the debts of others.*

| Serial No. in list. | Name. | Address. | Description. | In what character included. | No. of shares (or extent of interest) | Date when included in the list. |
|---|---|---|---|---|---|---|

*The Second Schedule above referred to :—*

| Serial No. in list. | Name. | Address. | Description. | In what character proposed to be included. | No. of shares (*or* extent of interest). | Date when excluded from the lst. |
|---|---|---|---|---|---|---|

Dated day of 18 .

G. H.

*Judge.*

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*No. 28.—Order on application to vary list. (Rule 29).*

Upon the application of W. N. to review the list of contributories of the said Company in respect of the inclusion of the said W. N. therein, and that his name may be excluded therefrom, and upon hearing advocates, or attorneys, or pleaders, &c., and upon reading, &c. It is ordered that the name of the said W. N. be excluded from the said list of contributories [*or* the Judge doth not think fit to make any order on the said application, except that the said W. N. do pay to R. P. H. the Official Liquidator of the said Company, his costs of this application, to be taxed by the taxing officer in case the parties differ].

*No. 29.—Affidavit of Official Liquidator in support of proposal for call. (Rule 32).*

I, R. P. H. of &c., the Official Liquidator of the above-named Company, make oath, [*or* solemnly affirm] and say as follows:—

I.—I have, in the schedule now produced and shown to me, and marked with the letter A, set forth a statement showing the amount due in respect of the debts allowed against the said Company, and the estimated amount of the costs, charges, and expenses of and incidental to, the winding-up the affairs thereof, and which several amounts form in the aggregate the sum of Rs. or thereabouts.

II.—I have also in the said schedule set forth a statement of the assets in hand belonging to the said Company, amounting to the sum of Rs. and no more. There are no other assets belonging to the said Company, except the amounts due from certain of the contributories of the said Company; and, to the best of my information and belief, it will be impossible to realize in respect of the said amounts more than the sum of Rs. or thereabouts.

III.—It appears by the Judge's certificate dated the day of 18 that persons have been settled on the list of contributories of the said Company, in respect of the total number of shares.

IV.—For the purpose of satisfying the several debts and liabilities of the said Company, and of paying the costs, charges, and expenses of, and incidental to, the winding-up the affairs thereof, I believe the sum of Rs. will be required, in addition to the amount of the assets of the said Company mentioned in the said schedule A., and the said sum of Rs.

V.—In order to provide the said sum of Rs. it is necessary to make a call upon the several persons who have been settled on the list of contributories as before mentioned, and having regard to the probability that some of such contributories will partly or wholly fail to pay the amount of such call, I believe that for the purpose of realizing the amount required as before mentioned, it is necessary that a call of Rs. per share should be made.

Sworn, &c.

*No. 30.—Summons for intended call. (Rule 33).*

Let all parties concerned attend at on day 18 , at o'clock on the hearing of an application on the part of the Official Liquidator of the above named Company that a call to the amount of Rs. per share may be made on all the contributories [*or if upon any particular class, specify the same*] of the said Company.

A. B.

*Registrar or Judge.*

This summons was taken out by A and B of , Attorneys for the said Official Liquidator.

To Mr. C. D. of, &c., a contributory of the said Company proposed to be included in the said call.

*No. 31.—Advertisement of intended call. (Rule 43).*

Notice is hereby given that day of 18 , at o'clock at the Court-house has been appointed to make a call on all the contributories of the said Company [*or as the case may be*], and that the Official Liquidator of the said Company proposes that such call shall be for Rs. per share. All persons interested are entitled to attend at such day, hour and place, to offer objections to such call.

Dated this day of 18 .

G. H.

*Registrar or Judge.*

*No. 32.—General order for a call. (Rule 34).*

Upon the application of the Official Liquidator of the above-named Company and upon reading two orders, dated the day of 18 , and the day of 18 , the Judge's certificate dated the day of 18 , an affidavit of the said Official Liquidator filed 18 , and the exhibit marked A therein referred to, and an affidavit of filed 18 , It is ordered that a call of Rs. per share be made on all the contributories of the said Company [*or*

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*as the case may be*]. And it is ordered that each such contributory do, on or before the day of 18 , pay into the Bank of Bengal [*or* into Court] to the account of the Official Liquidator of the Company the amount which will be due from him or her in respect of such call.

*No.* 33.—*Notice to be served with the general order for a call.* (*Rule* 34).

The amount due from you, A. B , in respect of the call made by the above [*or* within] order is the sum of Rs. which sum is to be paid by you into the Bank of Bengal, or into Court to the account mentioned in the said order. This notice and copy of order must be produced at the Bank [*or* Court] upon such payment and the Bank [*or* Court] will, upon receiving the same, deliver to you a certificate of the payment; you must, immediately upon such payment cause written notice of the payment, and of the date thereof, to be given to me as the Official Liquidator of the said Company at my office at

Dated this day of 18 .

R. P. H.,
*Official Liquidator.*

To Mr. A. B.

*No.* 34.—*Affidavit in support of application for order for payment of call from contributories* (*Rule* 35).

I, R. P. H., of &c., the Official Liquidator of the above-named Company, make oath [*or* solemnly affirm] and say as follows:—

1. None of the contributories of the said Company whose names are set forth in the schedule hereunto annexed, marked A, have paid or caused to be paid the respective sums set opposite their respective names in the said schedule, and which sums are the respective amounts now due from them respectively, in respect of the call of Rs. per share, in pursuance of the order in that behalf dated the day of 18 .

2. The respective amounts or sums set opposite the names of such contributories respectively, in such schedule, are the true amounts due and owing by such contributories respectively in respect of the said call.

Sworn, &c.

A.

*The Schedule above referred to.*

| No. of list. | Name. | Address. | Description. | In what character included. | Amount due. |
|---|---|---|---|---|---|
| | | | | | Rs. A. P. |

NOTE.—In addition to the above affidavit, an affidavit of the service of the order and notice (No. 32 and 33) will be required.

*No* 35.—*Order for payment of call due from a contributory.* (*Rule* 31).

Upon the application of the Official Liquidator of the above-named Company, and upon reading the order dated the day of 18 . an affidavit filed the day of 18 , and an affidavit of the said Official Liquidator filed the day of 18 . It is ordered that C. D. of &c., [*or* E. F. of &c, the legal personal representative of L. M., late of, &c., annexed] one of the contributories of the said Company (*or if against several contributories*, the several persons named in the second column of the schedule to this order, being respectively contributories of the said Company) do, on or before the day of 18 , or within four days after service of this order, pay into the Bank of Bengal (*or* into Court) to the account of the Official Liquidator of the Company [*or* to A. B. the Official Liquidator of the said Company, at his office at ] the sum of Rs. [*if against a legal personal representative, add*—out of the assets of the said L. M. deceased in his hands as such legal personal representative as aforesaid to be administered, in due course of administration, if the said E. F. has in his hands so much to be administered -*or if against several contributories*, the several sums of money set opposite to their respective names in the sixth column of the said schedule hereto] such sum [*or* sums] being the amount [*or* amounts] due from the said C. D. (*or* L. M.) *or* the said several persons respectively in respect of the call of Rs. per share made by the said order dated the day of 18 .

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*The Schedule referred to in the foregoing Order.*

| No. of list. | Name. | Address. | Description. | In what character included. | Amount due. |
|---|---|---|---|---|---|

NOTE.—The copy for service of the above order must be endorsed as follows:—If you, the within named C. D., neglect to obey this order, you will be liable to be arrested under a writ of attachment issued out of the Court of &c., and also be liable to have your property attached for the purpose of compelling you to obey the same order.

*No. 36.—Affidavit of service of order for payment of call. (Rule 35).*

I, J. B. of &c., make oath [*or* solemnly affirm] and say as follows: –

1. I did, on the day of 18 , personally serve G. F. of in, &c., with an order made in the matter by Mr. Justice [*or* by the Court, &c.,] dated the day of 18 , whereby it was ordered [*set out the order in the past tense*] by delivering to, and leaving with, the said G. F. at , in , a true copy of the said order, and at the same time producing and showing unto him, the said G. F., the said original order.

2. There was endorsed on the said copy, when so served, the following words, that is to say, "If you, the within named G. F., neglect to obey this order by the time therein limited, you will be liable to be arrested under a writ of attachment issued out of the High Court [*or as the case may be*] and also be liable to have your property attached for the purpose of compelling you to obey the same order.

Sworn, &c.

*No. 37.—Affidavit of non-payment of money by order directed to be paid into the Bank of Bengal or into Court. (Rule 38).*

I, R. P. H., of &c., the Official Liquidator of the above named Company, make oath [*or* solemnly affirm] and say as follows: –

J. G. F. the person named in an order made in this matter by Mr. Justice [*or* by this Court] dated the day of 18 , has not paid into the Bank of Bengal [*or* into Court] to the account of the Official Liquidator of the Company the whole or any part of the sum of Rs. as by the said order directed

(*or* in case of several parties)

None of the several persons whose names and addresses are set forth in the schedule hereunder written and who have respectively been duly served with orders made in this matter by Mr. Justice [*or* by the Court] of the respective dates set opposite to their respective names in the said schedule, have paid into the Bank of Bengal [*or* into Court] to the account of the Official Liquidator of the Company the whole or any part of the several sums of money set opposite to their respective names in the schedule hereunder written, as by the said orders respectively directed.

*The Schedule above referred to.*

| Name. | Address. | Description. | Amount. | Date of Balance order. | Number of Certificate. |
|---|---|---|---|---|---|
| | | | Rs. As. P. | | |

*No. 38.—Notice (or advertisement) of meeting of Creditors or Contributories. (Rule 43).*

Notice is hereby given that Mr. Justice (*or* this Court) has directed a meeting of the creditors (*or* contributories) of the above-named Company to be summoned, pursuant to the above Act, for the purpose of ascertaining their wishes as to [*state the object for which meeting called unless notice is by advertisement, in which case say*, certain matters relating to the winding-up of the said Company] and that such meeting will be held on day, the day of 18 at o'clock at at which time

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and place all the creditors [*or* contributories] of the said Company are requested to attend. (The said Judge [*or* Court] has appointed H. F., of &c., to act as Chairman of such meeting).

Dated this day of 18 .

R. P. H.
*Official Liquidator.*

*No.* 39.—*Appointment of Proxy to vote at Meeting of Creditors or Contributories.* (*Rule* 44).

I, W. S. of in the county of hereby appoint of as my Proxy to vote for me and on my behalf at the meeting of the creditors [*or* contributories ] of the said Company, summoned by direction of Mr. Justice [*or* by the Court of ] to be held on the day of and at any adjournment thereof.

As witness my hand this day of 18 .

W. S.

Signed by the said W. S. in the presence of
J. M. of &c.

*No.* 40.—*Memorandum of appointment of a person to act as Chairman of a Meeting of Creditors or Contributories.* (*Rule* 45).

The Judge of *or* Court of has appointed Mr. H. T. of &c. one of the creditors [*or* contributories] of the above-named Company, to act as Chairman of a meeting of the creditors [*or* contributories] of the said Company, summoned by direction of the said Judge (*or* Court) pursuant to the above Act to be held on day, the day of 18 , at o'clock at , and to report the result of such meeting to the said Judge [*or* Court]. The said meeting is summoned for the purpose of ascertaining the wishes of the creditors (*or* contributories) of the said Company as to [*state the object for which meeting called*] and at such meeting the votes of the creditors (*or* contributories) may be given either personally or by proxy.

Dated this day of 18 .

G. H.
*Registrar or Judge.*

*No.* 41.—*Chairman's report of result of Meeting of Creditors or Contributories.* (*Rule* 45).

I, H. T., the person appointed by Mr. Justice [*or* by the Court of ] to act as Chairman of a meeting of the creditors (*or* contributories) of the above-named Company summoned by advertisement (*or* notice) dated the day of , 18 and held on the day of 18 at , do hereby report to the said Judge (*or* Court) the result of such meeting as follows :—

The said meeting was attended either personally or by proxy by creditors, to whom debts against the said Company have been allowed amounting in whole to the value of Rupees (*or* by contributories holding in the whole shares in the said Company, and entitled respectively, by the regulations of the Company, to the number of votes hereinafter mentioned).

The question submitted to the said meeting was, whether the creditors (*or* contributories) of the said Company approved of the proposal of the Official Liquidator of the said Company, that, &c., [*as the case may be*], and wished that such proposal be adopted and carried into effect. The said meeting was unanimously of opinion that the said proposal should (*or* should not) be adopted and carried into effect, [or, the result of the voting upon such question was as follows] :—

The undermentioned creditors (*or* contributories) voted in favor of the said proposal being adopted and carried into effect :—

| Name of creditor (or contributory). | Address. | Value of debt (or number of shares). | Number of votes conferred on each contributory by the Regulations of the Company. |
|---|---|---|---|

The under-mentioned creditors [*or* contributories] voted against the said proposal being adopted and carried into effect.—

| Name of creditor (or contributory). | Address. | Value of debt (or number of shares). | Number of votes conferred on each contributory by the Regulations of the Company. |
|---|---|---|---|

Dated this day of 18 .

(Sd.) H. T.
*Chairman.*

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*No.* 42.—*Memorandum of Sanction of Judge to accepting Bill of Exchange.* (*Rule* 46).

The Judge of *or* Court of has sanctioned the acceptance of this Bill of Exchange by the Official Liquidator on behalf of the said Company.

G. H.,
*Judge.*

*No.* 43—*Memorandum of Agreement of Compromise with a Contributory.* (*Rule* 47).

Memorandum of agreement entered into this day of 18 between R. P. H. of &c., the Official Liquidator of the above-named Company of the one part, and S. B. of &c., one of the contributories of the said Company, of the other part.

Whereas the said S B. has been settled on the list of contributories of the said Company as a contributory in respect of shares in the said Company, and whereas, by an order made by Mr. Justice [or by the Court of ] dated the day of 18 , a call of Rs. per share was made on all the contributories of the said Company, and there is now due from the said S. B. to the said Company, the sum of Rs in respect of the said call. And whereas the said S. B. has proposed to pay to the said Official Liquidator the sum of Rs. , by way of compromise and in satisfaction and discharge of the said sum of Rs. , and of all liability whatsoever as a contributory of the said Company, and whereas the said Official Liquidator having investigated the affairs of the said S. B., and believing that such compromise will be beneficial to the said Company, hath in exercise of the power for that purpose given to him by the above Act, agreed to accept the same subject to the sanction of the said Judge[*or* Court] and to the conditions and agreements hereinafter contained. Now it is hereby agreed by and between the said parties hereto—

1. That the said Official Liquidator shall, before the day of next apply to the said Judge [*or* Court] to sanction this agreement of compromise.

2. That upon this agreement being sanctioned by the said Judge [*or* Court] the said S. B. shall, within days next after such sanction, pay to the said Official Liquidator, the said sum of Rs. and when thereto required, shall do and execute all such acts and deeds as may be necessary for transferring or surrendering and releasing to the said Official Liquidator, on behalf of the said Company, or in such manner as the said Judge [*or* Court] may direct, the said shares held by the said S. B. in the said Company, and all claim and demand whatsoever which the said S B. has, or may have against the said Company, in respect of the said shares, or the distribution of the assets of the said Company, or otherwise howsoever.

3. That the said sum of Rs. and the transfer or surrender and release of the said shares and interest of the said S. B. as aforesaid, shall be accepted by the said Official Liquidator and be deemed and taken to give to the said S. B. a full and complete discharge from all calls and liabilities, claims, and demands whatsoever which the said Company or the Official Liquidator thereof now has, or may hereafter have or be entitled to, against the said S. B. in respect of his being or having been the holder of the said shares or otherwise as a contributory of the said Company.

4. That in case this agreement shall not be sanctioned by the said Judge [*or* Court] it shall cease and determine, and the said Official Liquidator and the said S. B. shall be remitted to their original rights with respect to each other as if this agreement had not been entered into.

5. That in case this agreement shall be sanctioned by the said Judge [*or* Court] and the said S. B. shall not in all respects perform the same on his part, the Official Liquidator shall be at liberty, with the sanction of the said Judge [*or* Court] and without notice to the said S. B. to enforce the performance thereof, or with the like sanction to give notice to the said S. B. that he abandons this agreement, whereupon the same shall cease and determine, and the said Official Liquidator shall be entitled to proceed against the said S. B. to enforce payment of the said sum of Rs. , or so much thereof as shall then remain due and unpaid as if this agreement had not been entered into.

S. B. R. P. H.
*Official Liquidator.*

Witness to the signature of the said R. P. H. and S. B., C. D. of, &c.

*No.* 44.—*Memorandum of Sanction of Judge to Agreement of Compromise.* (*Rule* 47).

The Judge of the *or* Court of has sanctioned the agreement of Compromise.

G. H.
*Judge.*

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*No. 45.—Appearance book. (Rule 58).*

In the matter, &c.,

*Appearance Book.*

| Date when appearance entered. | Party's name. | Whether creditor or contributory. | If he appears in person, his address for service | If he appears by an attorney, his attorney's name. | Attorney's address. | Amount of debt or number of shares. |
|---|---|---|---|---|---|---|
| | | | | | | |

*No. 46.—Summons for person to attend to be examined. (S. 134).*

A. B. of &c., and E. F. of &c., are hereby severally summoned to attend at on day of 18 , at o'clock to be examined on the part of the Official Liquidator [*or* of W. D. of &c.] for the purpose of proceedings directed by the Hon'ble Mr. Justice [*or* by the Court] to be taken before me in the above matter, [and the said A. B. is hereby required to bring with him and produce at the time and place aforesaid a certain indenture [*describe documents*] and all other books, papers, deeds, writings, and other documents in his custody or power in any wise relating to the above-named Company].

Dated this day of 18 ,

G. H.
*Judg*

This summons was taken out by Messrs C. and D. of Attorneys for the Official Liquidator (*or* for the said W. D.)

*No. 47—Certificate of the Company being completely wound up, and of the Official Liquidator having passed his final account. (Rule 61).*

I hereby certify that R. P. H., the Official Liquidator of the above-named Company, has passed his final account as such Official Liquidator, and that the Balance of Rs. thereby certified to be due to [*or* from] the said Official Liquidator has been paid in the manner directed by the order dated the day of 18 and that the affairs of the said Company have been completely wound up.

Dated this day of 18

G. H.,
*Judge.*

*No. 48.—Order to dissolve the Company. (Rule 61).*

Upon the application of the Official Liquidator of the above-named Company, and upon reading an order dated the day of and the Judge's Certificate, dated the day of , whereby it appears that the affairs of the said Company have been completely wound up, and that the balance of Rs. due from [*or* to] the Official Liquidator has been paid in manner directed by the said order. It is ordered that the said Company be dissolved as from this day of 18 , and that the recognizance dated the day of 18 , entered into by the said Official Liquidator, together with W. B. and T. P. his sureties, be vacated.

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## Act No. VII of 1882.

(*Passed on the 24th February* 1882).

An Act to amend the law relating to Powers-of-Attorney.

For the purpose of amending the law relating to Powers-of-Attorney; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Powers-of-Attorney Act, 1882":

Local extent.

It applies to the whole of British India;

Commencement.

and it shall come into force on the first day of May, 1882.

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Execution under power-of-attorney.

2. The donee of a power-of-attorney may, if he thinks fit, execute or do any assurance, instrument, or thing in and with his own name and signature, and his own seal, where sealing is required, by the authority of the donor of the power; and every assurance, instrument, and thing so executed and done shall be as effectual in law as if it had been executed or done by the donee of the power in the name, and with the signature and seal, of the donor thereof.

This section applies to powers-of-attorney created by instruments executed either before or after this Act comes into force.

Payment by attorney under power, without notice of death, &c., good.

3. Any person making or doing any payment or act in good faith, in pursuance of a power-of-attorney, shall not be liable in respect of the payment or act by reason that, before the payment or act, the donor of the power had died or become lunatic, of unsound mind, or bankrupt or insolvent, or had revoked the power, if the fact of death, lunacy, unsoundness of mind, bankruptcy, insolvency, or revocation was not, at the time of the payment or act, known to the person making or doing the same.

But this section shall not affect any right against the payee of any person interested in any money so paid; and that person shall have the like remedy against the payee as he would have had against the payer, if the payment had not been made by him.

This section applies only to payments and acts made or done after this Act comes into force.

Deposit of original instruments creating powers-of-attorney.

4. (*a*) An instrument creating a power-of-attorney, its execution being verified by affidavit, statutory declaration, or other sufficient evidence, may, with the affidavit or declaration, if any, be deposited in the High Court within the local limits of whose jurisdiction the instrument may be.

(*b*) A separate file of instruments so deposited shall be kept; and any person may search that file, and inspect every instrument so deposited; and a certified copy thereof shall be delivered out to him on request.

(*c*) A copy of an instrument so deposited may be presented at the office and may be stamped or marked as a certified copy, and, when so stamped or marked, shall become and be a certified copy.

(*d*) A certified copy of an instrument so deposited shall, without further proof, be sufficient evidence of the contents of the instrument and of the deposit thereof in the High Court.

(*e*) The High Court may, from time to time, make rules for the purposes of this section, and prescribing, with the concurrence of the Local Government, the fees to be taken under clauses (*a*), (*b*), and (*c*).

(*f*) Throughout British Burma, the Court of the Recorder of Rangoon shall, for the purposes of this section, be deemed to be the High Court.

(*g*) This section applies to instruments creating powers-of-attorney executed either before or after this Act comes into force.

NOTE.—The rules made by the Chief Court under this section are printed at the end of the Act.

Power-of-attorney of married woman.

5. A married woman, whether a minor or not, shall, by virtue of this Act, have power, as if she were unmarried and of full age, by a non-testamentary instrument, to appoint an attorney on her behalf, for the purpose of executing any non-testamentary instrument or doing any other act which

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she might herself execute or do; and the provisions of this Act, relating to instruments creating powers-of-attorney, shall apply thereto.

This section applies only to instruments executed after this Act comes into force.

Act XXVIII of 1866, S. 39, repealed.

6. The Trustees and Mortgagees Powers Act, 1866, Section 39, is hereby repealed.

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NOTE.—The following rules have been made by the Chief Court of the Punjab under Section 4 of the Powers-of-Attorney Act, 1882, and are published for general information.

RULES OF COURT.

EVERY instrument to be deposited in the Chief Court under Section 4 of the Powers-of-Attorney Act, 1882, shall be presented to the Deputy Registrar by the donor or donee personally, or by an Advocate, Pleader, or Mukhtar of the Court, or by an Agent duly authorized by power of attorney, executed and authenticated in the manner mentioned in Section 33 of the Indian Registration Act, 1877.

2. If the instrument be presented by, or on behalf of, both the donor and the donee, the Deputy Registrar may forthwith file it.

3. If the instrument be presented by or on behalf of the donor only, or by or on behalf of the donee only, the Deputy Registrar shall receive it and notify to the donee or to the donor, as the case may be, that the instrument has been presented for deposit, and that, unless within a certain time cause be shown to the satisfaction of the Court why it should not be deposited, it will be filed. If no cause be shown, the Deputy Registrar shall take the orders of a Judge of the Court as to the filing of the instrument. If cause be shown, the instrument shall be filed or returned to the intending depositor, as the Judge may direct.

4. Each instrument deposited shall be endorsed with a certificate in the following form:—

"Filed in the Chief Court of the Punjab, under Section 4, Act VII of 1882, as No. of 188 , on the day of 188 ."

Seal of Chief Court.

*Dy. Registrar.*

It shall then, with such papers, if any, as relate to it, be placed in a separate envelope superscribed with (1) the annual serial number assigned to the instrument, (2) the names of the donor and donee, and (3) the date of deposit.

5. The envelopes shall be kept in annual files in chronological order, and on the top of each file shall be placed a list of the instruments it contains.

6. The files thall be kept by the Deputy Registrar in the fire-proof box provided for the preservation of wills.

7. No instrument which has been filed shall be returned or otherwise suffered to pass out of the custody of the Deputy Registrar except in pursuance of an order of a Judge of the Court.

8. For every instrument ordered to be removed from the file a certified copy shall be substituted at the expense of the person to whom the original is to be delivered, and a receipt for the original shall be taken from such person.

9. The Deputy Registrar shall keep in his own hand-writing an alphabetical index, in the following form, of the instruments deposited in the Court:—

| Name of donor. | Name of donee. | By whom presented. | Date of execution of instrument. | Description of papers, if any, deposited with the instrument. | Annual serial number. | Date of deposit. | Certified copy if any. | | Date of return. | To whom returned. | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | When delivered. | To whom delivered. | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| | | | | | | | | | | | |

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10. Applications for permission to search the index or to inspect instruments, and applications for copies or for the stamping or making of copies as certified copies, shall be made to, and be disposed of by the Deputy Registrar.

11. The following fees have been prescribed with the concurrence of the Local Government :—

| | | Rs. | A. | P. |
|---|---|---|---|---|
| (a). | For notice to donor or donee to show cause why an instrument should not be filed. ... ... ... ... ... ... ... | 2 | 0 | 0 |
| (b). | For filing an instrument ... ... ... ... ... ... ... | 2 | 0 | 0 |
| (c). | For searching index ... ... ... ... ... ... ... | 0 | 8 | 0 |
| (d). | In respect of each instrument inspected ... ... ... ... ... | 1 | 0 | 0 |
| (e). | For every 100 words or fraction of 100 words copied { in English ... | 0 | 4 | 0 |
| | { in Vernacular ... | 0 | 2 | 0 |
| (f). | For stamping or marking as a certified copy ... ... ... ... | 0 | 4 | 0 |

12. A register in the following form shall be kept of all fees received under the last preceding rule :—

| Date. | Name of payer. | Description of fee. | Annual serial number of instrument in respect of which fee is paid. | Amount. | Initials of Deputy Registrar. | Remarks. |
|---|---|---|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | | | | | | |

(*Chief Court Notification No.* 1994, *dated* 27*th June* 1882, *Punjab Gazette of* 6*th July, Part III*).

## ACT No. IX of 1882.

(*Passed on the* 2*nd March* 1882).

An Act to amend the Prisoners' Act, 1871.

Preamble.

WHEREAS it is expedient to amend Act No. V of 1871 (*to consolidate the laws relating to Prisoners confined by order of a Court*) ; It is hereby enacted as follows : —

Short title.

1. This Act may be called "The Prisoners' Act Amendment Act, 1882" ;

Local extent.

it extends to the whole of British India ;

Commencement.

and it shall come into force on the first day of January, 1883.

Section substituted for Section 33, Act V of 1871.

2. For section thirty-three of the said Act, the following shall be substituted (namely) :—

Governor-General in Council to appoint places to which persons sentenced to transportation shall be sent.

"33. The Governor-General in Council may from time to time, appoint places within British India to which persons sentenced to transportation shall be sent : and the Local Government, or some officer duly authorized in this behalf by the Local Government, shall give orders for the removal of

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Local Government to direct removal of such persons to places appointed.

such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence."

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## ACT No. X of 1882.

(*Passed on the 6th March* 1882).

An Act to consolidate and amend the law relating to Criminal Procedure.

NOTES.—(*a*). It has not been considered necessary to print the Code of Criminal Procedure in this collection as separate editions of the Act have been supplied to all the Criminal Courts in the Punjab.

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(*b*). Section 1 enacts that the Act shall come into force on the 1st January 1883, and Section 2 saves all notifications, &c., issued under repealed Acts.

(*c*). The following Notifications have been issued under Act X of 1882 :—

(1). Under Section 4, clause (*o*), declaring certain posts to be Police Stations and specifying the areas thereof :—

*Punjab Government Notification* (*Police*) *No.* 21, *dated 9th February* 1883, *Punjab Gazette of* 15*th idem, amended by the erratum dated* 21*st February* 1883, *Punjab Gazette of* 22*nd idem, and No.* 117, *dated* 16*th June* 1883, *Punjab Gazette of* 21*st idem, page* 351.

*No.* 144, *dated* 17*th July* 1883, *Punjab Gazette of* 19*th idem, Part I, page* 437, *modified by No.* 3 *dated* 8*th January* 1884, *Punjab Gazette of* 10*th idem, Part I, page* 48.

*No.* 16, *dated* 19*th January* 1884, *Punjab Gazette of* 24*th idem, Part I, page* 113.

*No.* 88, *dated* 3*rd April* 1884, *Punjab Gazette of* 10*th idem, Part I, page* 386.

*No.* 135, *dated* 10*th June* 1884, *Punjab Gazette of* 12*th idem, Part I, page* 734.

*No.* 142, *dated* 20*th June* 1884, *Punjab Gazette of* 26*th idem, Part I, page* 769.

*No.* 211, *dated* 26*th September* 1884. *Punjab Gazette of* 2*nd October* 1884, *Part I, page* 934.

*No.* 217, *dated* 7*th October* 1884. *Punjab Gazette of* 9*th idem, Part I, page* 953.

*Nos.* 7378., 7383., *dated* 17*th October* 1884, *Punjab Gazette of* 23*rd idem, Part I, pages* 1037, 1038.

*No.* 278, *dated* 26*th December* 1884, *Punjab Gazette of* 1*st January* 1885, *Part I, page* 8.

*No.* 21, *dated* 10*th February* 1885, *Punjab Gazette of* 12*th idem, Part I, page* 81.

*No.* 41, *dated* 3*rd March* 1885, *Punjab Gazette of* 5*th idem, Part I, page* 167.

*No.* 89, *dated* 5*th May* 1885, *Punjab Gazette of* 7*th idem, Part I, page* 343.

*Nos.* 133, 134, *dated* 11*th October* 1886, *Punjab Gazette of* 14*th idem, Part I, page* 572.

*No.* 182, *dated* 23*rd November* 1886, *Punjab Gazette of* 25*th idem, Part I, page* 646.

*No.* 96, *dated* 2*nd April* 1887, *Punjab Gazette of* 7*th idem, Part I, page* 221.

*No.* 189, *dated* 19*th September* 1887, *Punjab Gazette of* 22*nd idem, Part I, page* 527.

*No.* 22, *dated* 22*nd February* 1888, *Punjab Gazette of* 23*rd idem, Part I, page* 217.

*No.* 86, *dated* 16*th June* 1888, *Punjab Gazette of* 21*st idem, page* 457.

*No.* 162, *dated* 4*th December* 1888, *Punjab Gazette of* 6*th idem, page* 770.

*No.* 14, *dated* 25*th January* 1889, *Punjab Gazette of* 31*st idem, Part I, page* 45.

(2) —In exercise of the powers conferred upon the Local Government by Section 7 of the Code of Criminal Procedure, 1882, the Hon'ble the Lieutenant-Governor, with the previous sanction of the Governor-General in Council, is pleased in supersession of Punjab Government Notification No. 698 S., dated 16th October 1884, and in continuation of Notification No 835, dated the 30th October 1884, to alter the number of Sessions Divisions in the Punjab in the manner set forth in the table hereto subjoined.

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2. The Hon'ble the Lieutenant Governor is further pleased to declare that there shall be thirteen Sessions Divisions designated in the manner shown in the second column of the said table, and that the said Sessions Divisions shall respectively, consist of the district or districts entered opposite to their names in the third column of the said table :—

| 1 | 2 | 3 |
|---|---|---|
| No. | Divisions. | Districts. |
| 1 | Delhi ... | Delhi.<br>Gurgaon.<br>Rohtak.<br>Karnal. |
| 2 | Umballa ... | Umballa.<br>Simla.<br>Ludhiana. |
| 3 | Jullundur ... | Jullundur. |
| 4 | Hoshiarpur ... | Hoshiárpur.<br>Kángra. |
| 5 | Ferozepore ... | Ferozepore.†<br>Hissar. |
| 6 | Amritsar ... | Amritsar.<br>Gurdáspur. |
| 7 | Sialkot ... | Gujrànwála.<br>Sialkot. |
| 8 | Lahore ... | Lahore. |
| 9 | Mooltan ... | Mooltan.<br>Jhang.<br>Montgomery.<br>Muzaffargarh. |
| 10 | Jhelum ... | Jhelum.<br>Gujrat.<br>Shahpur. |
| 11 | Rawalpindi ... | Rawalpindi. |
| 12 | Derajat ... | Dera Ismail Khan.<br>Dera Ghazi Khan.<br>Bannu. |
| 13 | Peshawar ... | Peshawar.<br>Hazara.<br>Kohat. |

(*Punjab Government Notification No* 272, *dated* 9*th March* 1886, *Punjab Gazette of* 11*th idem, Part I*, *p*.108, as amended by *No*. 830, *dated* 20*th August* 1887, *Punjab Gazette of* 25*th idem, Part I*, *p*. 494, and by *No*. 412, *dated* 2*nd May* 1888, *Punjab Gazette of* 3*rd idem, Part I*, *p*. 406).

(3).—In exercise of the powers conferred upon the Local Government by Section 8 of the Code of Criminal Procedure, 1882, the Hon'ble the Lieutenant-Governor is pleased to make the portions of the districts specified in the second column of the table subjoined hereto to be sub-divisions of the Districts to which they belong, and which are entered in the first column of the said table ; and to declare that the said sub-divisions shall be established on and from the 1st November 1884, inclusive.

†As regards the limits of the Ferozepore and Hissar districts, See Nos. 686 S, 687 S, dated 15th October 1884, *Punjab Gazette* of 16th idem, pp. 973, 975.

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*Table of Sub-Divisions of certain Districts.*

| Name of District. | Name and Limits of Sub-division. |
|---|---|
| Hissar. | *Sirsa*, comprising the Sirsa Tahsil of the Hissar District. |
| Ferozepore. | *Fazilka*, comprising the Fazilka Tahsil of the Ferozepore District. |

(*Punjab Government Notification No.* 729 *S., dated* 17*th October* 1884, *Punjab Gazette of* 23*rd idem, Part I. p.* 103).

(3*a*).—In exercise of the powers conferred upon the Local Government by Section 12 of the Code of Criminal Procedure, 1882, the Hon'ble the Lieutenant-Governor is pleased to confer, and hereby confers, the powers of a Magistrate of the 3rd Class upon every person permanently or temporarily holding the office of Assistant Commissioner, Extra Assistant Commissioner, or Tahsildar, and not invested with any higher powers under that Code. The powers hereby conferred shall be exercised within the limits of any district to which the person hereby invested with the same may be posted.

(*Punjab Government Notification No.* 3, *dated* 2*nd January* 1889, *Punjab Gazette of* 3*rd idem, Part I, p.* 2).

(4).—In exercise of the authority conferred by Section 13 (1) of Act X of 1886, and with the previous sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to prescribe the rank of Deputy Inspector as that below which an officer of Police shall not be permitted by a Magistrate enquiring into or trying any case to conduct the prosecution.

(*No.* 213, *dated* 3*rd March* 1887, *Punjab Gazette of same date, Part I, p.* 84).

See Chief Court's Circular Memo. No. 8-1005 of 1887.

(4*a*). THE Judges of the Chief Court have drawn the attention of His Honor the Lieutenant-Governor to the necessity of every trial before a Court of Sessions being conducted by a Public Prosecutor under Section 270 of the Code of Criminal Procedure, and the learned Judges have suggested that instructions should be issued to all District Magistrates directing them to take action under the powers conferred on them by Section 492 of the Criminal Procedure Code in the direction of appointing persons to be Public Prosecutors for the purpose of conducting such trials. Rule I published with this office Circular No. 3—486, dated 9th April 1868, which was issued with reference to the provisions of Section 231 of Act XXV of 1861, and under Section 2, paragraph 2, of the Criminal Procedure Code, now constitutes the order of the Local Government under Section 492, paragraph (1), of the Criminal Procedure Code, runs as follows:—

> "Every European District Superintendent of Police and every Assistant Superintendent of Police shall be *ex-officio* Government Prosecutor in all cases in which the Magistrate of the District may consider it necessary that the prosecution should be conducted by a special agency, and in all Sessions cases in which a Magistrate may not think fit to exercise the power vested in him by the concluding portion of Section 231 of Act XXV of 1861."

So far as this rule relates to the conduct of prosecutions in cases other than Sessions cases, it has been modified by Punjab Government Notification No. 213, dated 3rd March 1887, prescribing the rank of Deputy Inspector as that below which an officer of Police shall not be permitted by the Magistrate inquiring into or trying any case to conduct the prosecution. Under this Notification, coupled with the provision of Section 495 of the Criminal Procedure Code as amended by Section 13, clause (1), of Act X of 1886, any Magistrate enquiring into or trying a case is authorized to provide for the prosecution of any case in which he may consider it necessary that a special agency should be employed. In regard to Sessions cases, the Lieutenant-Governor is pleased to prescribe the following rule in supersession of that now in force:—

> All District Superintendents of Police and Assistant District Superintendents of Police shall be *ex-officio* Public Prosecutors in respect of all cases committed from their respective districts for trial before the Court of Sessions, except any such case in which a Magistrate or other authority duly empowered in this behalf may see fit to appoint any other person to be Public Prosecutor for the purpose of such case.

The District Magistrate may, under this rule, if the case is of such a special nature as to demand it, apply for the services of the Government Advocate in accordance with the provisions of this office Circular No. 13—157 dated 19th February 1884, and there may be occasions when the District Magistrate thinks it necessary to appoint for the

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prosecution of Sessions cases an Assistant Commssioner, or Extra Assistant Commissioner or some other person, which under Section 492 of the Criminal Procedure Code he is competent to do. But ordinarily the services of the District Superintendent of Police or Assistant District Superintendent of Police should be made available for the prosecution of Sessions cases. The fact that in every case before a Court of Session the prosecution must be conducted by a Public Prosecutor will not prevent a private person from instructing a pleader to conduct the prosecution. On the contrary, such arrangements should be encouraged where private persons are willing to make them, but the pleader so instructed will act under the directions of the Public Prosecutor who will have the management of the case.

2. In view of the various duties which Police officers are required to perform, the Lieutenant-Governor abstains from prescribing a definite rule to the effect that such officers shall invariably be employed to prosecute Sessions cases. But His Honor is of opinion that more assistance may be rendered by such Police officers than is generally given at present, and the Inspector-General of Police has been asked to instruct all District Superintendents and Assistant District Superintendents of Police that the prosecution of Sessions cases will in future be considered an integral and important part of their duties, and that they should so arrange that their services shall, as a rule, be available when they are required by the District Magistrate or (subject to the control of the District Magistrate) the Sub-Divisional Magistrate to conduct such prosecutions under the provisions of Section 492 of the Criminal Procedure Code.

3. The Lieutenant-Governor hopes that District Magistrates and (subject to the control of the District Magistrates) Sub-Divisional Magistrates will no longer omit to exercise the power conferred by the section of the Code in question and by the instructions contained in this Circular. It will of course be necessary that they should bear in mind the other duties required from these officers, and see that no detriment is caused to the more important branches of Police work. Assistant District Superintendents of Police, who have not passed their Departmental examination in law and language, should ordinarily not be appointed to such duties.

4. Punjab Government Circulars No. 3—486, dated 9th April 1868, and No. 6—963 dated 6th March 1875, are hereby cancelled.

No. 637.

COPY forwarded to the Registrar, Chief Court, Punjab, for the information of the Judges, with reference to his letter No. 1589, dated 16th April 1887.

*(Punjab Government Circular No. 11-636, dated 18th June 1887).*

(5). In supersession of paragraph 3 of Notification No. 314, dated 27th January 1873, and Notification No. 3364, dated 1st October 1878, and in exercise of the power given to him by Section 37 of Act X of 1882 (The Code of Criminal Procedure), the Hon'ble the Lieutenant-Governor is pleased to confer the following additional powers on the classes of Magistrate indicated :—

I.—All Magistrates of the 1st Class (now standing appointed, or who may hereafter be appointed) are hereby invested with powers—

(1). To require security for good behaviour, Section 110;

(2). To make orders as to local nuisances, Section 133;

(3). To issue process for a person within the local jurisdiction who has committed an offence outside the local jurisdiction, Section 186;

(4). To sell property alleged or suspected to have been stolen, Section 524.

II.—All Magistrates of the 1st and 2nd Classes (now standing appointed, or who may hereafter be appointed) are hereby invested with powers—

(1). To make orders prohibiting repetitions of nuisances, Section 143;

(2). To make orders under Section 144;

(3). To hold inquests, Section 174:

(4). To take cognizance of offences upon information, Section 191;

III.—All Magistrates (now standing appointed, or who may hereafter be appointed) are hereby invested with power to take cognizance of offences upon complaint or police reports, Section 191.

IV.—All sub-divisional Magistrates (now standing appointed, or who may hereafter be appointed) are hereby invested with powers to call for records, Section 435.

All the above powers will be exercised subject to the general control of the District Magistrate.—*(Punjab Government Notification No. 99, dated 3rd February 1883, Punjab Gazette of 8th idem,* as corrected by the *erratum* in the *Punjab Gazette* of the 15th idem, p. 59).

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(6). In continuation of *Punjab Government Gazette* Notification No. 99, dated 3rd February 1883, the Hon'ble the Lieutenant-Governor is pleased, under the provisions of Section 41 of the Code of Criminal Procedure, to withdraw from Magistrates of the 2nd Class, appointed before the date of the Notification above cited, the power to commit for trial conferred on them under paragraph 3 of Punjab Government Notification No. 314, dated 27th January 1873. (*Punjab Government Notification No.* 247, *dated* 9*th March* 1883, *Punjab Gazette of* 15*th idem*).

(7). In exercise of the powers conferred on him by Section 68 of Act X of 1882, the Code of Criminal Procedure, the Hon'ble the Lieutenant-Governor is pleased to direct that every criminal summons for the service of which a fee is levied under the rules framed by the Chief Court under Section 20 of the Court Fees Act (VII of 1870) shall be served by the process serving establishment of the Court issuing the summons.—(*Punjab Government Notification No.* 314, *dated* 21*st March* 1883, *Punjab Gazette of* 22*nd idem*).

(8). In accordance with the provisions of Sections 157, 158, and 173, of the Code of Criminal Procedure, the Hon'ble the Lieutenant-Governor is pleased to direct as follows :—

The following reports, sent to Magistrates shall be submitted through a superior officer of police :—

(*a*). Information reports, or charge registers, under Section 157, in all cases in which the police have abstained from investigation ;

(*b*). Completion reports, including charge sheets, under Section 173, in all cases in which no person is sent up for trial, and whether any person has been arrested or not ; and

(*c*). Completion reports, including charge sheets, under Section 173, in all cases sent for trial at the head-quarters of a district.

The following officers of police shall be deemed to be "superior officers" within the meaning of thees rules :—

Under clauses (*a*) and (*b*), the District Superintendent of Police, and, when the District Superintendent of Police is unable to receive such reports, an assistant District Superintendent of Police, and when the District Superintendent of Police and Assistant District Superintendent of Police is unable to receive such reports, an Inspector of Police.

Under clause (*c*), the District Superintendent of Police, and, in his absence, an Assistant District Superintendent of Police ; and, in the absence of the District Superintendent of Police and the Assistant District Superintendent of Police, an Inspector of Police.—(*Punjab Government Notification No.* 77, *dated* 26*th April* 1883, *Punjab Gazette of* 3*rd May*).

(9).—In exercise of the powers conferred by Section 174 of the Criminal Procedure Code, the Lieutenant-Governor is pleased to appoint the Medical Officers hereinafter named to conduct *post mortem* examinations under that section ; and to rule that, except as provided in clause 3, bodies for such examination shall be forwarded to the authorized officer employed within the district where the case arises, to whom they can be brought by rail or otherwie in the shortest time.

2. The authorized officers appointed under this Notification are—

(1) All Civil Surgeons.

(2) All Medical Officers holding collateral Civil charges.

(3) In respect of deaths occurring within the limits of the Lahore and Chenawan Central Jails, the Superintendents of those Jails, being Medical Officers.

(4) All Assisstant Surgeons.

3. In the special cases named in this clause, bodies for *post-mortem* examination shall be forwarded when the death occurs within the limits of the jruisdiction of the Police Station

(1) of Anandpur, in the District of Hoshiarpur, between May 15th and September 15th of each year to the Assistant Surgeon at Rupar in the District of Umballa ; and

(2) of Miani, in the District of Shahpur, to the Assistant Surgeon of Pind Dadan Khan, in the District of Jhelum, throughout the year.

(*No.* 1074 S., *dated* 22*nd August* 1885, *Punjab Gazette of* 27*th idem*, *Part I*, *page* 64).

(10). Under the provisions of Section 274 of Act X of 1882, the Code of Criminal Procedure, the Hon'ble the Lieutenant-Governor is pleased to direct, in modification of paragraph 6 of Notification No. 314, dated 27*th* January 1873, that in trials by jury before Courts of

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Session the jury shall consist—

of nine persons in the districts of—

| | |
|---|---|
| Delhi, Simla, Lahore, | Rawalpindi, Peshawar ; |

of five persons in the districts of—

| | | |
|---|---|---|
| Umballa, Jullundur, | Amritsar, Sialkot, | Ferozepore, Mooltan ; |

and of three persons in all other districts of the Punjab.—(*Punjab Government Notification No.* 100, *dated 3rd February* 1883, *Punjab Gazette of 8th idem*).

(11).—Under Section 320 (*k*) of the Code of Criminal Procedure, the Hon'ble the Lieutenant-Governor is pleased to exempt the following officers of the North-Western Railway from service as Jurors in criminal trials held in the Punjab :—

(1) Engineers in charge of the open line.

(2) Engineering Inspectors employed on the open line.

(3) Locomotive Foremen and Drivers in charge at changing stations.

(4) Drivers of Pilot Engines.

(5) Station Masters.

(6) District Superintendents of Traffic.

(7) Assistant Superintendents of Traffic.

(8) Guards.

(9) District and Assistant Superintendents of the Locomotive Department.

(*No.* 205, *dated 20th February* 1886, *Punjab Gazette of 25th idem, Part I, page* 70).

(12).—Under Section 320 (*k*) of the Code of Criminal Procedure, the Hon'ble the Lieutenant-Governor is pleased to exempt the following officers of the Rajputána-Malwa and Rewari-Ferozepore Railways from service as jurors in criminal trials held in the Punjab :—

(1) Engineers in charge of the open line.

(2) Engineering Inspectors employed on the open line.

(3) Locomotive Foremen and Drivers in charge at changing stations.

(4) Drivers of Pilot Engines.

(5) Station Masters.

(6) District Superintendents of Traffic.

(7) Assistant Superintendents of Traffic.

(8) Guards.

(9) District and Assistant Superintendents of the Locomotive Department.

(*No.* 1112, *dated* 15*th November* 1886, *Punjab Gazette of* 18*th idem, Part I, page* 635).

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(13).—* *Rules framed by the Chief Court under Section* 365 *of the Code of Criminal Procedure (Act X of* 1882) *prescribing the manner in which evidence shall be taken down in cases coming before the Court.*

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EVIDENCE.

1. In original trials, in proceedings taken under Section 428, Criminal Procedure Code, upon the hearing of an appeal or revision case, and in any other criminal proceeding coming before one or more Judges, the Judge or one of the Judges shall make a memorandum in English of the substance of the evidence of each witness, as the examination proceeds ; provided that, by direction of a Judge, the evidence may be taken down either in English or in Urdu by one of the officials of the Court or other person specially appointed for that purpose.

2. The evidence shall ordinarily be recorded in narrative form, and shall be signed by a Judge and placed with the record.

3. If a question is objected to by, or on behalf of, the accused or the Crown, and is allowed by the Court to be put, the Judge or one of the Judges shall, if required by the person objecting, take down the question and answer, and note the fact of objection , and, if the person objecting shall tender a written note of his objection forthwith or before the witness is permitted by the Court to leave the witness box, the objection thus tendered shall be received and placed with the record.

4. The substance of the statement made by an accused person examined under Section 364 of the Code of Criminal Procedure, shall be reduced to writing by the Judge or one of the Judges, in English, and shall be signed by the Judge, and placed with the record.

* Dated 25th November 1887.

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Provided that, if, in a trial before a single Judge, the Judge is for any reason unable to record such statement with his own hand, the record thereof shall be prepared at his dictation by an official of the Court, or other person specially appointed for that purpose.

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(14). Under the provisions of Section 357 of Act X of 1882 (the Code of Criminal Procedure) the Hon'ble the Lieutenant-Governor is pleased to direct, in supersession of the orders contained in paragraph 8 of Punjab Government Notification No. 314, dated 27th January 1873, that throughout the Province, in all proceedings before a Court of Session or a Native Magistrate, the evidence of each witness shall, in the cases referred to in Section 356 of the above mentioned Code, be taken down by the Sessions Judge or Magistrate with his own hand and in his mother tongue, unless he is prevented by any sufficient reason from so taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down from his dictation in open Court. Provided that if the mother tongue of a Native Magistrate be not Urdu, such Magistrate shall take down the evidence in English or Urdu, if he be sufficiently acquainted with either of those languages. —(*Punjab Government Notification No.* 95, *dated 2nd February* 1883, *Punjab Gazette of 8th idem*).

(15). With reference to Section 422 of Act X of 1882, the Code of Criminal Procedure, prescribing that any Appellate Court, which does not reject an appeal summarily, shall cause notice to be given to such officer as the Local Government may appoint in this behalf of the time and place at which such appeal will be heard ; the Hon'ble the Lieutenant-Governor is pleased to direct that in the case of appeals other than those which lie to the District, or specially empowered Magistrate, the Appellate Court shall cause notice of the time and place of the hearing of such appeal to be given to the Magistrate of the District.—(*Punjab Government Notification No.* 108, *dated 8th February* 1883, *Punjab Gazette of same date*).

(16). Under the provisions of Section 475 B of the Code of Criminal Procedure, 1882, as amended by Act X of 1886, the Hon'ble the Lieutenant-Governor is pleased to empower the Superintendent of the Central Jail, Lahore, for the time being, to discharge all or any of the functions of the Inspector-General of Prisons under Sections 472, 473 and 474 of that Code. —(*Punjab Government No.* 66, *dated 19th January* 1887, *Punjab Gazette of 20th idem, Part I, p.* 20).

(17). Under the provisions of Section 528 of Act X of 1882, the Code of Criminal Procedure, the Hon'ble the Lieutenant-Governor is pleased to authorize all District Magistrates (now standing appointed, or who may be hereinafter appointed) to withdraw classes of cases from the Magistrate subordinate to them.—(*Punjab Government Notification No.* 101, *dated 3rd February* 1883, *Punjab Gazette of 8th idem*).

(18). Under the provisions of Section 541 of Act X of 1882, the Code of Criminal Procedure, the Hon'ble the Lieutenant-Governor is pleased to appoint the Lahore Central Jail and the District Jails of Delhi, Umballa, Rawalpindi, Mooltan, and Peshawar to be places of imprisonment for European British subjects.—(*Punjab Government Notification No.* 102, *dated 3rd February* 1883, *Punjab Gazette of 8th idem*).

(19). The following Rules have been made by the Governor-General in Council, under section 549 of the Code of Criminal Procedure, respecting the delivery to the Military authorities of persons charged with offences under Section 41 of the Army Act, 1881, for which they are liable to be tried by court-martial held under that Act :

(I). (1) When a person subject to military law is accused of an offence for which he is liable under the Army Act, 1881, Section 41, to be tried by a court-martial, a Magistrate shall not proceed to try him or to issue an order for his trial by jury, or to hold an inquiry into the case as a case triable by the Court of Session or the High Court, unless he is moved to do so by the military authorities, or is of opinion, for reasons to be recorded in writing, that he ought so to proceed without being moved thereto by those authorities.

(2) When the Magistrate is of opinion that he ought so to proceed without being moved thereto by the military authorities, he shall give notice of his intention to do so to an officer to whose command the accused person is subject, and shall not, till the expiration of fifteen days from the date of the service of the notice on the officer,—

(*a*) in a summons case acquit or convict the accused under Section 243, Section 245, Section 247 or Section 248 of the Code of Criminal Procedure, or hear him in his defence under Section 244 of the Code ; or,

(*b*) in a warrant case, frame a charge against the accused under Section 254 of the Code ; or

(*c*) issue an order for the trial of the accused by a jury under Section 451A, Sub-Section (2), of the Code ; or

(*d*) make an order committing the accused for trial by the Court of Session or the High Court under Section 213 or Section 215 of the Code.

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(3) If within the fifteen days, or at any time thereafter before the Magistrate has done or made an act or order specified in clause (2), sub-clause (*a*), sub-clause (*b*), sub-clause (*c*), or sub-clause (*d*) of this Rule, an officer to whose command the accused is subject notifies to the Magistrate that in the opinion of the military authorities, the accused should be tried by a court-martial, the Magistrate shall stay the proceedings before himself, and if the accused is in his power, deliver him, together with the statement mentioned in Section 549 of the Code, to the authority prescribed in that section.

II. If, after a Magistrate has been moved by the military authorities to proceed against a person subject to military law for an offence for which that person is liable, under the Army Act, 1881, Section 41, to be tried by court-martial, an officer to whose command the person is subject notifies to the Magistrate that, in the opinion of the military authorities the accused should be tried by a court-martial, the Magistrate, if he has not, before receiving the notice, done or made an act or order specified in clause (2), sub-clause (*a*), sub-clause (*b*), sub-clause (*c*), or sub-clause (*d*), of Rule I, shall stay the proceedings before himself, and if the accused is in his power, deliver him, together with the statement mentioned in Section 549 of the Code, to the authority prescribed in that section.

III. If a person who has been delivered by a Magistrate to a commanding officer, under Rule I, clause (3), or under Rule II, for the purpose of being tried by court-martial, is not brought to trial before a court-martial for the offence of which he is accused or effectual proceedings have not been taken, or have not been ordered to be taken against him, the Magistrate shall report the circumstance—

(*a*) in cases occurring within the territories administered by the Governor of Fort St. George in Council, or by the Governor of Bombay in Council, for the information and orders of the Governor in Council of Fort St. George or of Bombay as the case may be; and

(*b*) in other cases, through the Local Government, for the information and orders of the Governor-General in Council.

(*Government of India Notification No.* 1222, *dated* 27*th July* 1887, *Gazette of India of* 30*th idem*).

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Copy of a letter No. 1693, dated 24th October 1887, from the Officiating Under-Secretary to the Government of India, Home Department, to the Secretary to Government Punjab.

I AM directed to acknowledge the receipt of your letter No. 240, dated the 8th ultimo enquiring whether the Rules, promulgated by Home Department Notification No. 1222, dated the 27th July last, respecting the delivery to the military authorities of persons charged with offences under Section 41 of the Army Act, 1881, for which they are liable to be tried by court-martial, are intended to apply to the Native as well as to the British Army.

2. In reply I am to say that the rules in question are applicable only to persons who are subject to the Army Act, 1881, and not to persons subject to the Indian Articles of War, Act V of 1869.

See Chief Court's Book Circular No. X of 1887.

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(20). The following Rule of Practice made by the Judges of the Chief Court under Section 553, clause (*c*), of the Criminal Procedure Code, and sanctioned by the Local Government, is published for information :—

Every petition, other than petitions forwarded by the Superintendent of a Jail, presented to the Chief Court for revision of the order of a Subordinate Court of Appeal under Section 439 of the Criminal Procedure Code, shall be accompanied by a certified copy of the grounds of appeal taken in the Lower Appellate Court when in such petition an objection is taken to the effect that the Lower Appellate Court did not duly dispose of the grounds of appeal. (*Chief Court Notification No.* 3284, *dated* 24*th August* 1888, *Punjab Gazette of* 30*th idem, Part III, p.* 969).

(21). Under the provisions of Section 556 of Act X of 1882, the Code of Criminal Procedure, the Hon'ble the Lieutenant-Governor is pleased to declare that Urdu shall be deemed to be the language of the Criminal Courts within the territories administered by the Punjab Government.—(*Punjab Government Notification No.* 103, *dated* 3*rd February* 1883, *Punjab Gazette of* 8*th idem*).

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(*d*). The accompanying rules have been made by the Lieutenant-Governor in regard to appeals from original or appellate judgments of acquittal in criminal cases under Section 272* of the Code of Criminal Procedure, and have been circulated for information and guidance.

* Corresponding with S. 417 of the present Code.

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RULES REGARDING APPEALS FROM JUDGMENTS OF ACQUITTAL, UNDER SECTION 272 OF THE CODE OF CRIMINAL PROCEDURE.

I.—When a judgment of acquittal is passed in a Criminal case, in which the prosecution has been instituted by any department of the Government and conducted by the Government Advocate on behalf of Government, the Government Advocate shall, if he thinks that an appeal should be preferred from such judgment of acquittal, refer the case for the orders of Government in the Civil Department.

II.—When in any such case the prosecution is conducted otherwise than by the Government Advocate, and the prosecutor may consider that an appeal should be preferred, he shall submit the case for the orders of the Head of the Department concerned, who, if he concur, shall make a reference on the subject to the Government Advocate. The Government Advocate shall forward the case, with his opinion thereon, for the orders of Government in the Civil Department.

III.—When, however, under rule II the reference to the Government Advocate has to be submitted through the Deputy Commissioner and Commissioner, and the order from which an appeal is sought may have been passed by either of these officers, in such case such officer shall be bound to send on the reference with any remarks he may consider called for.

IV.—When any reference is made to the Government Advocate, copies of all judgments and orders in the case, and a full and accurate abstract of the evidence, and of the exhibits (if any) must be at the same time forwarded to him together with a statement of the grounds, on which exception is taken to the judgment of acquittal.

V.—It must be understood that proposals to appeal against acquittals should not be submitted except on very strong grounds and in cases of real importance; and no avoidable delay should be allowed to occur in submitting such references.

VI.—The above rules apply only to cases where the prosecution has been instituted on behalf of Government. In other cases the interference of any officer of Government is unnecessary. The complainant can, if he so choose, petition the Government to allow an appeal.—(*Punjab Government Circular No.* 29—2520, *dated 1st July* 1875).

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(*e*). AN instance having occurred of an important criminal case coming before the Chief Court on its revision side, in which the accused was permitted to be represented by Counsel but in which the Crown was unrepresented, the Lieutenant-Governor has requested that Deputy Commissioners be instructed to inform the Government Advocate of criminal cases of importance coming before the Chief Court on its appellate or revision side in which it is considered desirable that a representative of Government should attend.

2. The intimation to the Government Advocate should be accompanied by a copy of the judgment impeached, and a statement of the case and of the grounds on which it is considered important that the Crown should be represented.

3. Ordinarily the concurrence of the Commissioner should be obtained before addressing the Government Advocate; but in cases where time does not admit of a reference to the Commissioner, the Deputy Commissioner must act on his own judgment, keeping his superior informed.—(*Punjab Government Circular No.* 40—3223, *dated 2nd September* 1875).

The above Circular applys to forest cases equally with others, but in order to make it operative in regard to forest cases, His Honor the Lieutenant-Governor requests that Deputy Commissioners may be directed to inform the Local Forest Officer of all cases of this kind coming before the Chief Court. The Local Forest officer should then report to the Conservator of Forests, who, if necessary, may take steps to obtain the services of the Government Advocate.—(*Punjab Government Circular No.* 12—1689, *dated 23rd April* 1878).

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(*f*). Judicial Circulars No. XXXVIII—XCII will be found to relate to various matters connected with Criminal Law and Procedure, *vide* the volume of Judicial Circulars, 1887, edition, pp. 137—333.

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## ACT No. XI of 1882.

(*Passed on the* 10*th March* 1882).

An Act to amend the law relating to Customs Duties, and for other purposes.

Preamble.

WHEREAS it is expedient to amend the law relating to the duties of customs on goods imported and exported by sea, and to provide for the levy of duties on goods

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crossing the frontier of certain Foreign European Settlements in India and of the territories of certain Native Chiefs; It is hereby enacted as follows :—

NOTE.—The preamble has been amended by Act II of 1887, Section 7.

Short title.

1. This Act may be called "The Indian Tariff Act, 1882."

Local extent.

It extends to the whole of British India, except Aden;

Commencement.

and it shall come into force on the passing thereof.

Repeal of Acts.

2. The Acts mentioned in the first schedule hereto annexed are repealed to the extent specified therein :

Saving clause.

But all notifications published, and rules and orders made, under any of such Acts, and now in force shall, so far as they are consistent herewith, be deemed to have been respectively published and made hereunder:

All references made to the Indian Tariff Act, 1875, in Acts or Regulations passed before this Act comes into force, shall be deemed to be made to this Act :

And nothing herein contained authorizes the levy of duties of customs on any article carried from one port in British India to another, except salt, opium and spirit.

Duties specified in schedules to be levied.

3. There shall be levied and collected, in every port to which this Act applies, the duties specified in the second and third schedules hereto annexed.

Export of pepper from Cochin.

4. On all pepper exported by sea from the port of Cochin there shall be levied such duty not exceeding nine rupees per khandi as the Governor of Fort Saint George in Council from time to time determines; and at the close of each year, or as soon thereafter as may be convenient, the Customs-collector at the said port shall, after deducting the expenses of collection, pay the duty collected under this section to the Governments of Travancore and Cochin in such proportion and in such manner as the Governor of Fort Saint George in Council from time to time directs.

Duties on goods crossing frontiers—

5. Duties of customs shall be levied at the rates respectively prescribed in the second and third schedules hereto annexed on goods passing by land out of or into—

of Foreign European Settlements in Presidency of Madras;

(*a*) Foreign European Settlements situate on the line of coast within the limits of the Presidency of Fort Saint George;

of foreign territory..

(*b*) any territory declared, under the power next hereinafter conferred, to be foreign territory.

Power to declare territory foreign.

Subject to the control of the Governor-General in Council, the Governor of Fort St. George in Council and the Governor of Bombay in Council may, from time to time by notification in the local official Gazette, respectively declare that the territory of any Native Chief, situate within, or bordering on, the territories respectively administered by such Governors, but not subject to the jurisdiction of the Courts and Civil authorities of such territories, shall be deemed, for the purposes of this section, to be foreign territory.

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The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare that the territory of any other Native Chief, shall be deemed, for the purposes of this section, to be foreign territory.

6. In Act No. XVI of 1863, section one, for the words "calculated at ten", the words "not exceeding five" shall be substituted.

NOTE.—The rest of the above section is repealed by Act IX of 1885, Section 1.

Duty on spirit, opium and salt when protected by a certificate.

7. Spirit, opium and salt imported from any port in British India, and protected by the certificate of an officer empowered in that behalf by the Governor-General in Council or the Local Government, are chargeable with only the amount, if any, by which the duty leviable thereon under the second schedule hereto annexed exceeds the duty shown by such certificate to have been already paid in respect thereof.

The amount, if any, paid to the Government as the price of such opium or salt is not duty within the meaning of this section.

Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, VIII of 1878.

NOTE.—The last clause is added by Act II of 1887, Section 8.

Application of certain provisions as to duties and goods.

8. So far as regards the Presidency of Fort St. George, the unrepealed provisions of Act No. VI of 1844, and so far as regards the Presidency of Bombay, the unrepealed provisions of Act No. XXIX of 1857, relating to the levy of duties and to dutiable goods, shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of section five, clause (*b*).

Power to cancel notifications.

9. All notifications published hereunder may be cancelled by the authority publishing the same.

NOTES.—(*a*). Act IX of 1885, Section 4 enacts as follows:—

Saving of duties already fixed under Section 6 of Act XI of 1882.

"The duty now fixed by the Local Government under Section 6 of the Indian Tariff Act 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under Sections 7 and 18 of those Acts, as amended by this Act, respectively."

(*b*). Under Section 6, Act XI of 1882 (The Indian Tariff Act), His Honour the Lieutenant-Governor is pleased to reduce the duty levied on methylated spirit manufactured in the Punjab from 10 per cent. to 5 per cent. *ad valorem*. (*No.* 1033, *dated* 16*th April* 1884, *Punjab Gazette of* 17*th idem, Part I, page* 496).

SCHEDULE I.

ACTS REPEALED.

| Number and year. | Short Title. | Extent of Repeal. |
|---|---|---|
| XI of 1869 ... | The Land Customs (Madras and Bombay) Act, 1869 ... ... ... ... ... | So much as has not been repealed. |
| XVI of 1875 ... | The Indian Tariff Act, 1875 ... ... | Ditto. |
| XI of 1878 ... | The Indian Arms Act, 1878 ... ... | Section 8 and the second schedule. |

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## SCHEDULE II. *

### IMPORT TARIFF.

| No. | Names of Articles. | Per | Tariff valuation. | Duty. Rs. | As. |
|---|---|---|---|---|---|
| 1 | ARMS, AMMUNITION AND MILITARY STORES— | | | | |
| | Fire-arms and parts thereof— | | | | |
| | 1. Fire-arms other than pistols, for each ... ... ... | ..... | ..... | 50 | 0 |
| | 2. Barrels for the same, whether single or double, for each ... | ..... | ..... | 30 | 0 |
| | 3. Pistols, for each ... ... | ..... | ..... | 15 | 0 |
| | 4. Barrels for the same, whether single or double for each ... | ..... | ..... | 10 | 0 |
| | 5. Springs used for fire-arms, for each ... ... ... ... | ..... | ..... | 8 | 0 |
| | 6. Gunstocks, sights, blocks and rollers, for each ... ... | ..... | ..... | 5 | 0 |
| | 7. Revolver-breeches, for each cartridge they will carry ... | ..... | ..... | 2 | 8 |
| | 8. Extractors, nippers, heel-plates, pins, screws, tangs, bolts, thumb-pieces, triggers, trigger-guards, hammers, pistons, plates, and all other parts of a fire-arm not herein otherwise provided for, and all tools used for cleaning or putting together or loading the same, for each ... ... | ..... | ..... | 1 | 8 |
| | 9. Machines for making or loading or closing cartridges, for each | ..... | ..... | 10 | 0 |
| | 10. Machines for capping cartridges, for each ... ... ... | ..... | ..... | 2 | 8 |
| | *Exception* I.—Articles falling under the 5th, 6th, 8th, 9th or 10th head of the above list, when they appertain to a fire arm falling under the 1st or 3rd head, and are fitted into the same with such fire-arm are free. | | | | |
| | *Exception* II.—Arms forming part of the regular equipment of an officer entitled to wear diplomatic, military, or police uniform, and a revolver or a pair of pistols accompanying a military officer, are free. | | | | |
| | *Proviso* 1.—No duty in excess of ten per cent. *ad valorem* shall be levied upon any of the articles mentioned in the above list when they are imported in reasonable quantity, for his own private use, by any person lawfully entitled to possess the same. | | | | |
| | *Proviso* 2.—When any articles which have been otherwise imported, and upon which duty has been levied or is leviable under this number, are purchased retail from the importer by a person lawfully | | | | |

* As amended by Act II of 1887, and Act II of 1888.

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| No. | Names of Articles. | Per | Tariff valuation. | Rate of Duty. |
|---|---|---|---|---|
| | entitled as aforesaid, in reasonable quantity for his own private use, the importer may apply to the Customs-collector for a refund or remission (as the case may be) of so much of the duty thereon as is in excess of ten per cent. *ad valorem*; and if such collector is satisfied as to the identity of the articles, and that such importer is in other respects entitled to such refund or remission, he shall grant the same accordingly. | | | |
| | Gunpowder, common ... ... | lb. | Rs. A. 0 5 | 10 per cent |
| | ,, sporting ... ... | lb. | 1 0 | |
| | All other sorts ... ... ... | ..... | *Ad valorem.* | |
| 2 | LIQUORS— | | | |
| | Ale, beer and porter, except when condensed or concentrated ... ... ... ... | Impl. Gallon or six quart bottles | ..... | One anna. |
| | Cider, and other fermented liquors ... ... ... | | | |
| | Liqueurs ... ... ... ... | Ditto. | ..... | Rs. 5. |
| | Spirit intended to be used exclusively in arts or manufactures, or in chemistry, and which has been rendered effectually and permanently unfit for human consumption ... ... ... | ..... | *Ad valorem.* | 5 per cent. |
| | Spirit, when used in drugs, medicines or chemicals in a proportion less than twenty per cent. of spirit of the strength of London proof ... ... ... | ..... | *Ad valorem.* | 5 per cent. |
| | Spirit when so used in a proportion of twenty per cent. and upwards. | Impl. Gallon or six quart bottles of the strength of London proof. | ..... | Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof. |
| | Spirit perfumed, in wood or in bottles. | Impl. Gallon or six quart bottles. | ..... | Rs. 7-8. |
| | Spirit, other sorts ... ... | Impl. Gallon or six quart bottles, of the strength of London proof. | ..... | Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof. |
| | WINES— | | | |
| | Champagne and all other sparkling wines ... .. | Impl. gallon or six quart bottles | ..... | Rs. 2-8. |
| | All other sorts of wines ... | Ditto. | ..... | Re 1. |
| 3 | OPIUM NOT COVERED BY A GOVERNMENT PASS ... ... ... ... | Ser of 80 tolas | ..... | Rs. 24. |

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| No. | Names of Articles. | Per | Tariff valuation. | Rate of Duty. |
|---|---|---|---|---|
| 4 | SALT ... ... ... ... ... | Indian maund of 82⅔ lbs. avoirdupois weight. | ..... | The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place. |
| 5 | PETROLEUM, including also the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance or from any products of petroleum<br><br>*Exception.*—Petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is proved to the satisfaction of the Customs-collector to be intended to be used exclusively for the batching of jute or other fibre or for lubricating purposes. | Imperial gallon | ... | Six pies |

SCHEDULE III.

EXPORT TARIFF.

| Name of Article. | Per | Tariff valuation. | Rate of Duty. |
|---|---|---|---|
| RICE, whether husked or unhusked ... ... | Indian maund of 82⅔ lbs avoirdupois weight | ... | 3 annas. |

## ACT No. XII of 1882.

(*Passed on the 10th March* 1882).

An Act for regulating the duty on Salt, and for other purposes.

Preamble.

WHEREAS it is expedient to amend the law relating to the levy of duty on salt, and to the import and transit of salt, and the manufacture of salt and saltpetre, into, over, and in British India; It is hereby enacted as follows:—

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## CHAPTER I.

### PRELIMINARY.

Short title. Commencement.

1. This Act may be called "The Indian Salt Act, 1882"; and it shall come into force at once.

Local extent.

This section, sections two, seven, and eight, and so much of this Act as refers to offences against any of its provisions or against any rules made under it, extend to the whole of British India;

The rest of this Act extends to the territories for the time being respectively administered by the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, and Ajmír and Mairwára, to the Province of Sindh, to the Districts of the Patna Division, and to British territory under the jurisdiction of the Agent to the Governor-General in Central India;

Power to extend Act.

and any portion of this Act, other than the portions specified in the second paragraph of this section, may be extended, by order of the Governor-General in Council published in the *Gazette of India*, to any part of British India other than the territories, province, and districts mentioned in the third paragraph of this section.

Repeal of enactments.

2. The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column thereof; but all rules made, licenses and passes granted, prices and duties fixed, notifications published, and powers conferred under any such enactment and now in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, granted, fixed, published, and conferred hereunder.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

"the said territories":

the expression "the said territories" means the territories to which the section of this Act, in which that expression occurs, for the time being extends;

"Assistant Comissioner:"

"Assistant Commissioner" means an Assistant Commissioner of Northern India Salt-revenue, and also includes any person invested by the Local Government with the powers of an Assistant Commissioner under this Act;

"Salt-revenue officer":

"Salt-revenue officer" means any officer of the Northern India Salt Department, and also includes any person invested by the Local Government with any of the powers of a Salt-revenue officer under this Act;

"saltpetre":

"saltpetre" includes rasi, sajji, and all other substances manufactured from saline earth, and khari-nun and every form of sulphate or carbonate of soda; and

"manufacture of salt."

"manufacture of salt" includes the separation or purification of salt obtained in the manufacture of saltpetre, the separation of salt from earth or other substance so as to produce alimentary salt, and the excavation or removal of natural saline deposits or efflorescence.

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4. The powers and duties conferred and imposed by this Act on a Commissioner of a Division may, in places where there is no such Commissioner, be exercised and performed by such officer as the Governor-General in Council may, from time to time, appoint in this behalf.

Power of Commissioner of Division by whom to be exercised.

5. At the head of the administration of the salt-revenue under this Act there shall be an officer, called the Commissioner of Northern India Salt-revenue, who shall be appointed, and may be suspended or removed, by the Governor-General in Council.

Commissioner of Northern India Salt-revenue.

## CHAPTER II.

### MANUFACTURE AND REFINING OF SALT AND SALTPETRE.

6. The Governor-General in Council may from time to time by rule—

Power of Governor-General in Council—

(a) prohibit absolutely, or subject to such conditions as he thinks fit, the manufacture of salt, or the manufacture or refining of saltpetre, throughout the whole or any portion of the said territories;

to regulate manufacture and refining of salt and saltpetre;

(b) fix fees for the following licenses, not exceeding in the case of each such license the amount hereinafter mentioned:—

to fix fees for licenses;

| | Rs. |
|---|---|
| License to manufacture and refine saltpetre and to separate and purify salt in the process of such manufacture and refining ... ... ... ... ... ... | 50 |
| License to manufacture saltpetre ... ... ... ... ... ... ... ... | 2 |
| License to manufacture sulphate of soda (*khari-nûn*) by solar heat in evaporating pans.. ... ... ... ... ... ... ... ... ... ... ... | 10 |
| License to manufacture sulphate of soda (*khari-nûn*) by artificial heat ... ... | 2 |
| License to manufacture other saline substances... ... ... ... ... ... | 2 |

(c) determine the manner, time, and place in and at which, and the persons by whom, any duty imposed hereunder shall be collected in the said teritorries;

to regulate the collection of duties;

(d) define an area no point in which shall be more than one hundred yards from the nearest point of any place in which salt is stored or sold by or on behalf of Government, or of any manufactory and its appurtenances in or on which saltpetre is manufactured or refined, and regulate the possession, storage, and sale of salt within such area;

to regulate possession of salt in vicinity of places where saltpetre is manufactured;

(e) define an area round any other place in which salt is manufactured, and regulate the possession, storage, and sale of salt within such area.

to regulate possession of salt in vicinity of places where salt is manufactured.

NOTES.—(a).—In the exercise of the power conferred by Section 10 of Act VIII of 1875, the Governor-General in Council prohibited the manufacture of salt and the manufacture and refining of saltpetre throughout the whole of the territories mentioned in Section 1, clause 3, except in such places and subject to such conditions in and subject to which such manufacture and refining were lawful on the first day of March 1875.—(*Notification No.* 201, *dated* 8*th June* 1875—*Gazette of India of* 19*th idem*).

(b).—Under the powers conferred by section 10 of the Indian Customs Act, 1875, His Excellency the Governor-General in Council is pleased to prohibit the manufacture of salt in the province of Sind, except by or on behalf of the Government or by persons licensed by the Government; and to impose a duty of two rupees eight annas per maund of three thousand two hundred tolas on all salt sold by such persons. This rule will take effect on and from the 1st January 1878.—(*Government of India Notification No.* 263, *dated* 28*th December* 1877).

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## CHAPTER III.

### Duty and Price of Salt.

Power of Governor-General in Council—

7. The Governor-General in Council may from time to time by rule consistent with this Act—

to impose a duty on manufacture of salt,

(a) impose a duty, not exceeding three rupees per maund of $82\frac{2}{7}$ pounds avoirdupois, on salt manufactured in, or imported by land into, any part of British India;

to reduce or remit duties,

(b) reduce or remit any duty so imposed and re-impose any duty so reduced or remitted;

to fix minimum price of salt excavated, &c., by Government.

(c) fix the minimum price at which salt excavated, manufactured, or sold by or on behalf of the Government of India shall be sold.

In calculating the amount of duty payable under this section, fractions of quarter maunds may be reckoned as quarter maunds.

(a). The duty to be paid on salt manufactured in Aden has been fixed at one rupee per seven *railahs*—(*No.* 2469, *dated* 3*rd August* 1883, *Gazette of India of* 4*th idem, Part I, page* 327).

(b). In exercise of the powers conferred by Section 7 of the Indian Salt Act, XII of 1882, the Governor-General in Council imposes a duty of 8 annas per Lahori maund of $102\frac{17}{28}$ lbs. avoirdupois on salt manufactured in the mines in the district of Kohat noted on the margin, with effect from the 7th July 1883.—(*No.* 1931, *dated* 6*th July* 1883, *Gazette of India of* 7*th idem*).

Jatta, Malgin, Narri, Karrak, Bahadur Khel.

(c). In exercise of the powers conferred by Section 7 of the Indian Salt Act, 1882, and in supersession of Notifications by the Government of India in the Department of Finance and Commerce, Nos. 1449, dated 10th March 1882, and 751, dated 28th April 1882, the Governor-General in Council directs that, on and after the date of this Notification, the duty to be paid on salt manufactured in or imported by land into British India shall be as follows:—

(a) in the case of salt manufactured in or imported by land into Lower Burma, one rupee for each maund of $82\frac{2}{7}$ pounds avoirdupois weight, and

(b) in the case of salt manufactured in or imported by land into any other part of British India, except that portion of the territories administered by the Lieutenant-Governor of the Punjab, which lies west of the river Indus, two rupees eight annas for each maund of $82\frac{2}{7}$ pounds avoirdupois weight.—(*Government of India Notification No.* 343, *dated* 19*th January* 1888, *Gazette of India of* 21*st idem, Part I, page* 31).

(d). In exercise of the powers conferred by Section 7 of the Indian Salt Act, 1882, and in continuation of the Notification in this Department No. 343, dated 19th January 1888, the Governor-General in Council directs that on and from the 19th January 1888, the duty to be paid on salt manufactured at the Kalabagh mines situated west of the Indus, shall be two rupees and eight annas for each maund of $82\frac{2}{7}$ pounds avoirdupois weight.—(*Government of India Notification No.* 474, *dated* 27*th January* 1888, *Gazette of India of* 28*th idem, Part I, page* 48).

Power of Local Government to fix minimum price of salt excavated, &c.

8. Subject to any general rules or special orders which the Governor-General in Council may from time to time make in this behalf, the Local Government may from time to time, by notification in the local official Gazette, fix the minimum price at which salt excavated, manufactured, or sold by or on behalf of such Local Government shall be sold.

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## CHAPTER IV.

### Offences against the Salt-Revenue.

Penalties.

9. Whoever commits any of the following offences (namely) :—

(a) does anything in contravention of this Act or of any rule made hereunder;

(b) evades payment of any duty or charge payable under this Act or any such rules; or

(c) attempts to commit, or abets, within the meaning of the Indian Penal Code, the commission of any of the offences mentioned in clauses (a) and (b) of this section,

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both;

and the convicting Magistrate, on the application of the Assistant Commissioner or Salt-revenue officer, may declare to be confiscated all works, materials, and implements constructed or prepared for the purpose of manufacturing or refining salt or saltpetre contrary to the provisions of this Act or any such rule.

Punishment on second and subsequent convictions.

10. Any person convicted of an offence under section nine, after having been previously convicted of an offence under that section or Section 11 of the Inland Customs Act, 1875, or under any enactment repealed by that Act, shall be punished with imprisonment for a term which may extend to six months, in addition to the punishment which may be inflicted for a first offence under section nine;

and every such person shall, upon every subsequent conviction of an offence under section nine, be liable to imprisonment for a term which may extend to six months, in addition to any term of imprisonment to which he was liable at his last previous conviction.

Charge by whom to be preferred.

11. A charge of an offence under Section 9 or under Section 11 of the Inland Customs Act, 1875, shall not be entertained except on the complaint of an Assistant Commissioner or other Salt-revenue officer not inferior in rank to a Sub-Inspector,

Limitation.

and no such complaint shall be admitted unless it is preferred within six months after the commission of the offence to which it refers.

Jurisdiction.

All such offences shall be tried by a Magistrate exercising powers not less than those of a Magistrate of the second class.

Confiscation of articles in respect of which offences committed.

12. All salt or saltpetre in respect of which any offence mentioned in section nine has been committed, together with the vessels, packages, or coverings in which such salt or saltpetre is contained, and the animals and conveyances used in carrying it, shall be liable to confiscation.

When the article seized exceeds five seers in weight, the Commissioner of the Division in which the seizure takes place may, if satisfied on the report of any Salt-revenue officer, or on such inquiry as he thinks fit to make, that such offence has been committed, declare such article to be confiscated or impose such lesser penalty in lieu of confiscation as to him may seem fit.

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If the article seized does not exceed five seers in weight, the Assistant Commissioner shall possess the same powers in regard to its disposal as by this section are conferred on the Commissioner of the Division in regard to quantities exceeding five seers, and may also confiscate any vessel, package, or covering in which such article is contained.

Whenever such Commissioner declares under this section any article to be confiscated, he may also declare to be confiscated any vessel, package, or covering in which such article is contained, and any animal or conveyance used in carrying it.

Power to levy additional duty as penalty.

**13.** The Governor-General in Council may, from time to time, by rule, direct that any Salt-revenue officer, not inferior in rank to an Assistant Inspector, if satisfied in such manner as such rule may prescribe that any offence mentioned in section nine has been committed in respect of any dutiable salt, shall, instead of making a complaint to a Magistrate, or instituting proceedings with a view to confiscation, impose as a penalty an additional duty on such salt not exceeding the duty leviable thereon under Chapter III of this Act.

The imposition of every such penalty shall be at once reported, if the salt, in respect of which an offence has been committed, exceeds five seers in weight, to the Commissioner of the Division in which such penalty is imposed, and, if such salt does not exceed five seers in weight, to the Assistant Commissioner,

and shall require the sanction of the Commissioner or Assistant Commissioner, as the case may be, to whom it is so reported.

Punishment for connivance at offences mentioned in section nine.

**14.** Any zamindar or other proprietor of land, and any agent of a zamindar or proprietor of land, who wilfully connives at any offence mentioned in section nine, shall for every such offence be punishable by any Magistrate exercising powers not less than those of a Magistrate of the second class with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

## CHAPTER V.

### Powers of Stoppage, Search, Seizure, and Arrest.

Power to search places where article is manufactured under license.

**15.** Any Salt-revenue officer empowered in this behalf by the Local Government may at any time enter and search any place in which any article is manufactured or refined under a license granted under this Act or any rule made hereunder.

Power to detain suspected person and to seize goods liable to confiscation.

**16.** Any Salt-revenue officer may stop and detain any person whom he has reason to believe to be liable to punishment under this Act;

and may seize any salt or saltpetre in respect of which there is reason to believe that any offence mentioned in section nine has been committed, or that any duty is payable, together with the vessels, packages, or coverings in which such salt or saltpetre is contained, and the animals or conveyances used in carrying it.

Power to arrest.

**17.** Any Salt-revenue officer may arrest any person whom he has reason to believe to have committed any such offence as last aforesaid.

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Procedure of officer having reason to believe unlawful manufacture.

18. Whenever any Salt-revenue officer, not inferior in rank to a Sub-Inspector, has reason to believe that salt or saltpetre is being unlawfully manufactured, refined, or stored in an unlicensed place,

such officer shall first record in writing (so far as may be practicable) (*a*) the name, residence, and calling of the informant (if any); (*b*) the locality and description of the house, boat, or place where the officer believes that the salt or saltpetre is being so manufactured, refined, or stored; (*c*) the name of the person by or for whom the salt or saltpetre is so manufactured, refined, or stored; and (*d*) the supposed quantity and description of the salt or saltpetre, with the grounds for believing the same to be unlawfully manufactured, refined, or stored;

and may then summon in writing the officer in charge of the Police-station within whose jurisdiction the house, boat, or place to be searched is situate to attend him;

Power to enter and search.

and may then, after sunrise and before sunset (but always in the presence of an officer of Police not inferior in rank to a head constable), enter and search any house, boat, or place in which there is reason to believe that salt or saltpetre is being so manufactured, refined, or stored;

and, in case of resistance, may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all salt and saltpetre so manufactured, refined, or stored, and all materials used in the manufacture or refinement of such salt or saltpetre;

and may also detain and search and, if he thinks proper, arrest the occupier of the said house, boat, or place, together with all persons concerned in the manufacture, refinement, or storing of such salt or saltpetre, or in the concealing thereof.

If the place so entered is an apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the officer entering the same shall be guided by the rules prescribed for such cases in the Code of Criminal Procedure.

Before conducting a search under this section, the officer conducting it shall call upon two or more respectable inhabitants (if any) of the locality in which the house, boat, or place is situate to attend and witness the search, and the search shall be made in the presence of such inhabitants (if any), and also (if practicable) of the occupant of the house, boat, or place searched.

Whenever it is necessary to cause a woman to be searched, the search shall bemade by another woman with strict regard to decency.

Failure of Police-officer to attend.

19. Any officer in charge of a Police station who, on application in writing made by a Salt-revenue officer to attend for any of the purposes specified in section eighteen, refuses or fails within a reasonable time so to attend or to depute a subordinate officer, not inferior in rank to a head constable, so to attend, shall for every such offence be punished with fine which may extend to five hundred rupees.

Report of arrest, seizure, and search.

20. Whenever a Salt-revenue officer under the rank of Assistant Commissioner arrests under this Act any person,

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or seizes any article as liable to confiscation under this Act,

or enters any house, boat, or place for the purpose of searching for any such article,

he shall (unless generally empowered by the Assistant Commissioner to send the person arrested to the Magistrate) within forty-eight hours next after such arrest, seizure, or entry make a full report of all the particulars of such arrest, seizure, or entry to his official superior for the information of the Assistant Commissioner.

Every officer making any arrest under this Act, or his official superior, shall, if generally empowered in this behalf by the Assistant Commissioner, either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the discharge of such person.

Every officer of Police attending any search made under section eighteen shall report the same to his official superior.

Procedure in respect of articles seized.

21. Whenever the Assistant Commissioner is informed of the seizure of any article exceeding five seers in weight as liable to confiscation under this Act, he shall, with all convenient despatch, report the circumstances of the case to the Commissioner of the Division in which seizure is made, who may thereupon proceed under section twelve:

If the article seized does not exceed five seers in weight, such Assistant Commissioner may dispose of the case himself under the said section.

Procedure on detention of article subject to additional duty.

22. Any article in respect of which a penalty is imposed under section thirteen may be detained pending the receipt of the order of the Commissioner of the Division or the Assistant Commissioner, as the case may be, on the report required by the same section:

Provided that, if the owner of any article so detained deposits the amount of such penalty with, and pays all ordinary duty and charges payable on such article to, the Salt-revenue officer detaining the same, such article shall be at once released.

When an article is so detained it shall on the receipt of the said order be dealt with in accordance with the rules made in this behalf hereunder.

When an article has been released under the second paragraph of this section, and the Commissioner of the Division or Assistant Commissioner, at the case may be, reduces, or declines to sanction, the penalty imposed in respect of such article, the amount refundable to the owner shall be paid to him on his applying therefor to the Assistant Commissioner within six months to be computed (where the order has been made by the Commissioner of the Division) from the day on which the Assistant Commissioner has received such order, and (where the order has been made by the Assistant Commissioner) from the date of such order.

When any penalty, the amount of which has been deposited under the second clause of this section, is sanctioned,

or when any sum refundable under this section has not been claimed within the said period of six months, the amount so in deposit, or the sum so refundable shall be forfeited to Her Majesty, unless the Commissioner of Northern India Salt-revenue shall otherwise direct.

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Procedure in respect of person arrested.

23. Whenever the Assistant Commissioner is informed of the arrest of any person, he shall (unless such person has been dealt with under the penultimate paragraph of section twenty) either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the immediate discharge of such person.

Officers required to assist Salt-revenue officers.

24. All officers of Police, and all officers of Government engaged in the collection of land-revenue, are hereby empowered and required to assist the Salt-revenue officers in the execution of this Act.

Vexatious search, seizure, &c., by Salt-revenue officer.

25. Any Salt-revenue officer who—

(*a*) without reasonable ground of suspicion searches or causes to be searched any house, boat, or place;

(*b*) vexatiously and unnecessarily detains, searches, or arrests any person;

(*c*) vexatiously and unnecessarily seizes the moveable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act;

(*d*) commits, as such officer, any other act to the injury of any person, when such officer has not reason to believe that such act is required for the execution of his duty,

shall for every such offence be punishable, by a Magistrate exercising powers not less than those of a Magistrate of the second class, with fine which may extend to five hundred rupees.

Any person wilfully and maliciously giving false information and so causing a search to be made under this Act, shall be punishable, by a Magistrate exercising the same powers, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to two years, or with both.

Power to regulate seizures and disposal of things seized.

26. The Governor-General in Council may, from time to time, make rules consistent with this Act to regulate the seizure, disposal, and destruction of things liable to be seized under this Act.

Such rules may, among other matters, provide—

(*a*) that the owner or person having the charge of any animal seized and detained shall provide from day to day for its keep while detained, and that, if he omits to do so, such animal may be sold by public auction, and the expenses (if any) incurred on account of it defrayed from the proceeds of the sale;

(*b*) that when anything is seized and an order for its release is subsequently passed, and the owner does not, within a period to be fixed by such rules, appear to claim such thing and tender the duty, penalties, and charges (if any) due in respect thereof, it may be sold by public auction, and such duty, penalties, and charges defrayed from the proceeds of the sale;

(*c*) that the surplus-proceeds of a sale under clause (*a*) or clause (*b*) of this section shall, unless the owner of the thing seized establishes his claim to such proceeds within a period not less than three months, to be fixed by such rules, be forfeited to Her Majesty.

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## CHAPTER VI.

### MISCELLANEOUS.

Power to prohibit import and transit of salt.

**27.** The Governor-General in Council may, from time to time, by rule prohibit absolutely, or subject to conditions, the importation of salt into, or the transit of salt over, the said territories or any part thereof.

Except in the case of a prohibition under this section, nothing in this Act shall affect the transit of salt into or from any of the said territories, from or into any other part of British India.

NOTES.—(*a*). In the exercise of the power conferred by Section 28 of the Inland Customs Act, 1875, the Governor-General in Council has prohibited the transit of salt from the left bank to the right bank of the Sutlej river at any point west of that where the Inland Customs line crosses the said river, and from the left bank to the right bank of the Chenab river from its junction with the Sutlej river to its junction with the Indus river.

The Governor-General in Council has also prohibited the transit of salt from the right to the left bank of the Indus river except such salt as is the produce of the Kalabagh mines.—(*Notification No.* 439, *dated* 31*st December* 1875, *Department of Agriculture, Revenue and Commerce*).

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(*b*). In exercise of the power conferred by Section 28 of the Inland Customs Act, 1875, the President in Council is pleased to make the following Rules, that is to say :—

1. When any salt is, after the 16th day of December 1876, brought from foreign territory, no person shall move such salt into or over any tract of British territory lying to the west of the Customs Zone between the rivers Sutlej and Nerbudda, except subject to the following conditions, namely :—

(*a*) that such salt be in transit to some place within or to the eastward of the Customs Zone ;

(*b*) that it be covered by a pass issued by such Officer as the Commissioner of Inland Customs from time to time appoints in this behalf ; and

(*c*) that it be taken direct from the point at which it enters British territory to its destination within or to the eastward of the Zone, by such route as may be prescribed in such pass, and without stopping at any intermediate place for a longer time than may be permitted by an order endorsed on such pass by such Officer as the Commissioner of Inland Customs from time to time appoints in this behalf.

2. No person shall move any salt which may be within the limits of any such tract on the said 16th day of December 1876, except under a pass granted by such Officer as the Commissioner of Inland Customs from time to time appoints in this behalf.

3. The Commissioner of Inland Customs may, from time to time, by a general order under his hand, exempt from the operation of this Notification, upon such conditions as he thinks fit, such quantities of salt, not exceeding in each case ten maunds, as are intended for consumption within any such tract.

4. Nothing herein contained shall apply to any salt covered by a rawanna issued under paragraph 10 of the rules contained in Notification No. 156, dated the 30th June 1876. (*Government of India Notification No.* 344, *dated* 14*th December* 1876).

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(*c*). Whereas His Highness the Maharaja of Jeypore, His Highness the Maharaja of Kishengarh, His Highness the Maharaja of Bhurtpore, and His Highness the Maharao Raja of Ulwur, have granted to the British Government full jurisdiction within those portions of land forming the Rajputana (State) Railway [including lands occupied as stations, outbuildings, and for other purposes connected with the Railway] which lie within their respective territories :

In exercise of such jurisdiction and of the powers conferred by Sections 4 and 5 of Act XI of 1872 [The Foreign Jurisdiction and Extradition Act, 1872], the Governor-General in Council is pleased to notify as follows :—

The Inland Customs Act [VII of 1875] is hereby extended to all the aforesaid portions of land.

2. In exercise of the power conferred by Section 28 of the said Inland Customs Act, 1875, the Governor-General in Council is pleased to direct that no salt which at the date of this notification is or may afterwards be brought upon any of the aforesaid portions of land shall be moved, except—

(*a*) salt covered by a pass showing that there has been paid to the Government in respect thereof a duty of Rs. 2-8 per maund ;

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(*b*) salt covered by a pass stating that such salt is free salt furnished under treaty to some Native Prince or Chief ; or

(*c*) salt booked through to some station of the said Railway east of the Customs line.

3. In calculating the amount of the duty above mentioned, fractions of quarter maunds shall be reckoned as quarter maunds.—(*Government of India Notification No.* 193 *J., dated* 13*th November* 1878).

(*d*).—Whereas His Highness the Maharaja of Jeypore, His Highness the Maharaja of Kishengarh, His Highness the Maharaja of Bhurtpore, His Highness the Maharao Raja of Ulwur, His Highness the Raja of Nabha, and His Highness the Nawab of Pataudi have granted to the British Government full jurisdiction within those portions of land forming the Rajputana (State) Railway (including lands occupied as stations, out-buildings, and for other purposes connected with the Railway) which lie within their respective territories : In exercise of such jurisdiction and of the powers conferred by Sections 4 and 5 of Act XI of 1872 (The Foreign Jurisdiction and Extradition Act, 1872), the Governor-General is pleased to notify as follows :—

1. On all salt imported, whether before or after the date of this notification, into any of the aforesaid portions of land without payment of duty, and which after one month from the date of this notification and from the date of importation has not been moved in a manner permitted by Notification No. 193 J. of this date, a duty of Rupees 2-8 per maund of three thousand two hundred tolahs shall be levied, and in calculating the amount of such duty, fractions of quarter maunds shall be reckoned as quarter maunds.

2. When duty has become payable upon any salt under this notification, and has not been paid, any officer empowered in this behalf by the Commissioner of Inland Customs may declare such salt to be forfeited to Her Majesty.

Provided that no such declaration shall be made in respect of any salt until the expiration of one fortnight after notice in writing of the intention to make such declaration has been served upon the owner or consignor of such salt, or where such owner or consignor cannot be found, after such notice has been posted at the place where such salt is stored, and, if such salt was conveyed to such place as aforesaid by rail from another place within the aforesaid portions of land, also at the place from which such salt was despatched.

3. Nothing herein contained shall be deemed to impose any duty on salt covered by a pass stating that such salt is free salt furnished under treaty to some Native Prince or Chief.

(*Government of India Notification No* 199 *J., dated* 13*th November* 1878).

(*e*). In exercise of the powers conferred by Section 27 of the Indian Salt Act, 1882, the Governor-General in Council is pleased in supersession of Notification No. 3661, dated 13th November 1880, to prohibit absolutely the importation into, or the transit over, the province of Sindh or any part thereof, of salt produced or manufactured in foreign territory or in any Native State, or brought from foreign territory or from a native State.—(*Government of India Notification No.* 3200, *dated* 15*th December* 1882).

Further matters for which Governor-General in Council may make rules.

**28.** In addition to the rules which the Governor-General in Council is hereinbefore empowered to make, he may, from time to time, make rules consistent with this Act to regulate the following matters, namely :—

(*a*) the persons by whom, and the time, place, and manner at or in which, anything to be done under this Act shall be done ;

(*b*) the cases in which and the officers to whom, and the conditions subject to which, orders given by Salt-revenue officers under this Act shall be appealable ;

(*c*) the fee to be charged on account of any license, pass, certificate, dakhila, rawana, or other such document issued under this Act;

and generally to carry out the provisions herein contained.

Publication of rules.

**29.** All rules made under this Act shall be published in the *Gazette of India*, and shall thereupon have the force of law.

Power to confer powers of Assistant Commissioner and Salt-revenue officers.

**30.** Subject to the provisions herein contained, and to any rules for the time being in force made by the Governor-General in Council, the Local Government or the Commissioner of Northern India Salt-revenue may invest any person with the powers of an Assistant Commissioner under this Act, or with all or any of the powers hereinbefore conferred on Salt-revenue officers.

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NOTES.—(*a*). Whereas His Highness the Maharaja of Jeypore, His Highness the Maharaja of Kishengarh, His Highness the Maharaja of Bhurtpore, His Highness the Maharao Raja of Ulwur, His Highness the Raja of Nabha, and his Highness the Nawab of Pataudi, have granted to the British Government full jurisdiction within those portions of land forming the Rajputana State Railway (including lands occupied as stations, out-buildings, and for other purposes connected with the Railway) which lie within their respective territories: in exercise of such jurisdiction, and of the power conferred by Section 31 of Act VIII of 1875 (the Inland Customs Act), the Governor General in Council is pleased to invest all Traffic Managers, Assistant Traffic Managers, Station Masters, Assistant Station Masters, and Goods Clerks, and also all Superintendents, Assistant Superintendents, and Inspectors of Police on the said Rajputana State Railway, within the aforesaid portions of land, with all the powers of stoppage and seizure conferred on Customs Officers under the said Act.—(*Government of India Notification No. 22 J., dated 14th February* 1879).

(*b*). Under the authority conferred upon him by Section 31, Act VIII of 1875, the Hon'ble the Lieutenant-Governor in pleased to invest all Deputy Commissioners in the Punjab with the powers of a Collector of Customs in their respective districts; and for the purposes of the said Act, each district in the Punjab as constituted for revenue purposes shall be deemed a "Custom Circle."

The Hon'ble the Lieutenant-Governor is further pleased to invest all Assistant and Extra Assistant Commissioners with the powers of Inspectors; all Tahsildars with the powers of Sub-Inspectors; and all subordinate Tahsil officials with the powers of Customs Officers under the said Act, to be exercised by them within the districts or tahsils in which they may be employed for the time being.—(*Punjab Government Notification No.* 847, *dated 26th July* 1877).

Amendment of Madras Act, VI of 1871.

13. For section 11 of the Madras Salt Excise Act, 1871, the following shall be substituted:—

Levy of duty on salt.

"11. The excise-duty on salt manufactured in any district or part of a district to which this Act may be extended, shall be paid under such orders as the Board of Revenue, from time to time, makes in this behalf; but no such duty shall be leviable until the salt is about to be removed from the place of storage, and no salt shall be so removed without a permit authorizing its removal from store, and such permit shall specify the quantity to be removed and the excise-duty levied or due thereon."

## SCHEDULE.

(*See Section* 2).

ENACTMENTS REPEALED.

ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

| Number and year. | Short title. | Extent of repeal. |
|---|---|---|
| VIII of 1875 ... ... | The Inland Customs Act, 1875. | The whole. |
| II of 1876 ... ... ... | The Burma Land and Revenue Act, 1876. | Section 39, clause (*b*), and in clause (*c*) of the same section the words and letter "under clause (*b*)." |
| XVIII of 1877 ... ... | The Salt Act, 1877 | The whole. |

REGULATION.

| | | |
|---|---|---|
| II of 1877 ... ... ... | The Ajmir Laws Regulation, 1877. | Sections 36 and 37. |

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ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

| Number and Year. | Short title. | Extent of repeal. |
|---|---|---|
| VII of 1864. ... ... | The Salt Act, 1864 ... ... | Section nine. |

NOTE.—The following Rules made by the Governor-General in Council in exercise of the powers conferred by the Indian Salt Act, 1882, are published under Section 29 of the said Act in supersession of those published with Notifications No. 156, dated 30th June 1876, No 1897, dated 25th July 1879, No 111, dated 17th April 1880, No. 3755, dated 20th November 1880, and No. 1245, dated 19th March 1881 :—

*Preliminary.*

1. These rules are applicable to the territories mentioned in the 3rd clause of Section I of the Act, with the following exceptions :—

(*a*) Such portion of the said territories as lies on the right bank of the Indus with the exception of the Kalabagh mines and an area of 10 miles round them.

(*b*) The Province of Sindh.

*Manufacture of salt under license.*

2. No person who is not duly licensed in the manner hereinafter provided shall manufacture salt.

3. Any person wishing to manufacture salt shall apply for a license to the Salt-revenue Officer in charge of the division or circle in which it is desired to carry on the manufacture, who, subject to the general control of the Commissioner of Northern India Salt-revenue shall grant or withhold it as he shall see fit.

4. Each such license shall contain the name of the person to whom it is given, and shall specify the limits within which such manufacture shall be carried on and the place where the salt so manufactured shall be stored, and shall be subject to the following conditions:—

1*st*.—That the provisions of the Act and of all rules and subsidiary rules duly made under it shall be strictly observed by the licensee, his agents and servants.

2*nd*.—That none but good salt capable in the judgment of the Salt-revenue Officer in charge of the division or circle of bearing the duty fixed, from time to time, by the Governor-General in Council under Section 7 of the Act shall be manufactured. All inferior salt shall be destroyed by being thrown back into the salt wells or pans in the presence of such officer.

3*rd*.—That no alteration shall be made in the pans, wells, or other plant of the salt-work as existing at the date of granting the license without written sanction from the Salt-revenue Officer in charge of the division or circle.

And shall be subject to such further conditions as the Commissioner may, from time to time, prescribe for the protection of the Government Revenue.

5. The manufacture of salt and the storage and sale of the salt manufactured shall be carried on in conformity with the conditions of the license and of the subsidiary rules issued, from time to time, by the Commissioner and under the supervision of the officers of the Salt-revenue Department.

6. Licenses may be cancelled by the Salt-revenue Officer in charge of the division or circle giving one month's notice, or on the application of the licensee.

In the case of cancelment of license for infringement of its conditions, no notice shall be necessary.

7. Salt in store at any salt-work, a license to manufacture salt at which has been cancelled or withholden, shall be removed within six months of the date of such cancelment or withholding. The Assistant Commissioner may cause any salt which may remain in store at such salt work after the expiry of such period of six months to be put up to auction and sold if the price offered be equal to the excise duty leviable thereon. If the price bid be less than the excise duty leviable thereon, the Assistant Commissioner may cause the salt to be effectually destroyed.

8. Nothing in the foregoing rules shall apply to the manufacture of salt by or on behalf of Government.

*Protected areas, and possession, storage and sale of salt within them.*

9. The area defined for the purposes of Section 6, clause (*e*), of the Act, round each salt-mine or salt-bed in the Punjab Mines Division shall extend to a distance of 10 miles from the boundary of each mine or bed on all sides, except that it shall not include any territory lying on the left bank of the Indus.

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The area defined for the purposes of Section 6, clause (*c*), round any other salt-work shall extend to a distance of two miles from the boundary of the salt-work on all sides.

The areas above defined are termed "protected areas."

10. No person shall possess any salt within a protected area unless accompanied by a pass, *rawannah* or certificate covering the same as provided in the following rules. This rule does not apply to the possession, on the right bank of the Indus, of gray salt, the produce of the Kohát and Bannu Districts.

11. No salt shall be removed from the place of manufacture, or, after storage, from the place of storage, to any place in the salt-works in which it has been manufactured, except under a written pass from the Salt-revenue Officer in charge of the works, and all salt removed under such pass shall be weighed or estimated by measurement previous to such removal by the Salt-revenue establishments.

12. No salt shall be removed from the salt-works unless covered by a *rawannah* certifying that duty at the rate fixed, from time to time, by the Governor-General in Council under section 7 of the Act has been paid on it or under the authority in writing of the Salt-revenue Officer in charge.

13. Except as in these rules otherwise provided, any person wishing to remove salt from the salt-works shall first pay the charges due thereon into such Government treasury or sub-treasury as may, from time to time be appointed, and shall receive in return a receipt.

Fractions of quarter maunds shall be paid for as quarter maunds.

14. He shall present the receipt with a written requisition to the officer appointed by the Commissioner to receive it, and shall receive in lieu a *rawannah* for the salt, signed by the said officer and sealed in his presence.

15. The *rawannah* shall be current and valid for such period as the Commissioner may, from time to time, prescribe.

The period of currency shall count from the day on which the *rawannah* is delivered to the applicant, that day being included and being noted on the face of the *rawannah*.

16. Provided that when a *rawannah* is presented and the salt it covers is weighed and clearance given to the holder of the *rawannah* by the Inspector or Assistant Inspector more than seven days previous to the expiry of the period of the currency of the *rawannah*, such *rawannah* shall cease to be valid on the expiry of seven days from the date on which the salt has been weighed, unless the officer of the store by an order endorsed on it allows it to run for its full period or any portion thereof.

17. After the period of currency of a *rawannah* has elapsed, the *rawannah* shall cease to be valid, or of any effect whatever, unless the period be extended in the manner hereinafter provided.

18. The Commissioner may, from time to time, fix the minimum quantity of salt to be covered by a single *rawannah*.

19. The Commissioner may sanction an abatement for dryage of the salt not exceeding one per cent.

20. On a *rawannah* being presented and salt being issued thereunder, the Salt-revenue Officer concerned, before allowing such salt to leave his charge, shall ascertain that such *rawannah* is still in force and valid, and shall satisfy himself that the *rawannah* covers the amount of salt being issued, and shall then endorse the *rawannah* and return it to the trader or his agent, or to the carrier of the salt. The salt shall then be allowed to proceed to its destination.

21. When salt has been weighed and delivered to the holder of a *rawannah*, he shall remove it within 24 hours to a distance of at least one mile from the store, unless the officer in charge of the store, by an order endorsed on the *rawannah*, permits him to keep it within a shorter distance.

22. If previous to utilisation of a *rawannah* any minor particulars in it require rectification, such as the description of carriage, owner's name, &c., application must be made for such rectification to the officer in charge of the depôt or store before delivery of the salt is applied for.

23. If the despatch differs in minor particulars which have not been rectified in the manner prescribed in the preceding rule, the whole despatch shall be again liable to the payment of a fee not exceeding one-twentieth of the original duty, and shall on such payment be cleared, an entry being made on the *rawannah* that the payment has been levied as a penalty for infraction of rule, which infraction should be specified by the officer in his own handwriting.

24. If the officer suspect fraud, he may refuse to deliver the salt except under security equivalent to its full value, together with the duty leviable thereon, and shall refer the case for the orders of his superior officer.

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25. If the owner of a *rawannah* desires to divide a despatch of salt covered by the *rawannah*, he shall apply to the officer who issued the *rawannah*, and the officer shall issue as many partition *rawannahs* as may be required, and cancel and resume the original *rawannah*.

26. If anything occurs to prevent the owner of a *rawannah* clearing the salt before the expiry of the period of currency of the *rawannah*, the officer who granted the *rawannah* may at his discretion, but subject to such restrictions as the Commissioner may, from time to time, impose, renew such *rawannah* at any time not more than six months from the date of original issue. If application for renewal is made later than a week before the expiry of the original *rawannah*, it shall be complied with only on the applicant's paying a fee of one-twentieth of the duty originally paid.

The currency of the fresh *rawannah* shall not exceed that of the original *rawannah*.

27. Applications for renewal, except as provided in the preceding rule, shall be forwarded for the orders of the Commissioner, who may authorise such further renewals as he may deem fit.

28. When a *rawannah* is lost or destroyed previous to utilisation, the person to whom it was granted may make application to the officer who issued it for a duplicate, and with the application shall deposit with the officer an amount equivalent to the duty paid for the original *rawannah plus* one-twentieth as a fee. The officer may thereupon grant a duplicate *rawannah*.

On the expiry of the currency of the original *rawannah*, if it has not been utilised, the duty so deposited shall be refunded.

29. The Commissioner may, if he sees fit, authorise the refund of the whole or any portion of a fee paid under Rules 23, 26 and 28.

30. The deposit of salt for retail sale to the people inhabiting a protected area may, subject to any conditions prescribed by the Commissioner, be permited at any place within the limits of the area approved by the Assistant Commissioner. The *rawannah* designed to cover such deposit shall be endorsed by the Assistant Commissioner for that purpose, and shall remain in force for a period not exceeding four months.

31. Every person retailing such salt under such a *rawannah* shall keep a register of sales daily written up, and shall give to each purchaser a certificate stating the date of sale the name of such purchaser, and the quantity of salt purchased.

32. A certificate given under the foregoing rule shall cover the salt sold under it while in the possession of the purchaser as if it were a *rawannah*.

33. When any salt is stopped for examination within a protected area by a Salt-revenue Officer, the *rawannah* covering the despatch shall be presented by the trader or his agent, or by the carrier of the salt, to such officer, who shall satisfy himself that it is a genuine document, and that its currency has not expired, and may, if necessary, proceed to weigh the despatch.

34. If on weighment of the salt it is found to exceed the quantity entered in the *rawannah*, the following practice shall be observed by the officer:

(*a*) If the excess is not more than one per cent., he shall allow the salt to pass unquestioned.

(*b*) If the excess is more than one per cent., he shall detain the despatch and report the matter without delay for the orders of his superior officer for such action as is necessary under the Act.

*Importation from Rajputana and Central India and places trans-Indus.*

35. The transit of salt produced or manufactured in any Native State included in the Rajputana and Central India Agencies from any of the said States into any part of the British territory adjoining the same is prohibited, unless such salt is covered by a *rawannah* or pass granted by such officer as the Commissioner may appoint on this behalf, showing that it has paid duty to the British Government at the rate fixed, from time to time, by the Governor-General in Council under Section 7 of the Act.

36. The transit of salt from the right to the left bank of the river Indus, except such salt as is the produce of the Kalabagh mines, is prohibited.

* 36 A. The importation into any part of the territories to which these rules apply of the salt known in Calcutta, and other parts of the Provinces of Bengal as "pakwa", being salt which has been obtained in the manufacture of saltpetre, and on which the duty for the time being imposed under Section 7 of the Act has not been paid at the place where the salt was obtained as on salt manufactured in the part of British India where that place is situated, is prohibited absolutely.

† *Vide* No. 2639, dated 21st August 1885, *Gazette of India* of 22nd idem, Part I, p. 501.

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*Manufacture and refinement of saltpetre and the eduction of salt therefrom.*

37. No substance included under the term "saltpetre" in Section 3 of the Act shall be manufactured or refined, and no salt shall be educed therefrom, except under and in accordance with the conditions of a license as hereinafter prescribed.

38. Applications for licenses shall be made to the Salt-revenue Officer in charge of the division or circle in which the works are situated, who may grant the application on receipt of the prescribed license fee.

39. No license shall be granted for the manufacture of crude saltpetre, or any of the other substances included under the term "saltpetre" in Section 3 of the Act, unless the licensing officer is satisfied that the soil in the vicinity of the place of manufacture, and the soil from which the said crude saltpetre or other substance is to be produced, do not contain such a percentage of chloride of sodium as to render the manufacture a source of danger to the Salt-revenue, and unless the works are so situated that they can, without difficulty, be supervised by the Salt-revenue Department.

40. As a general rule, no refinery shall be licensed until the parties applying for a license have satisfied the licensing officer that they are prepared to produce within the period of the license not less than two hundred maunds of refined saltpetre.

41. No refinery shall be licensed until the parties applying for a license have satisfied the licensing officer that the refinery buildings and premises are so constructed and surrounded by a wall as to afford full security for the levy of the duty on salt educed therein.

42. The following fees shall be levied in prepayment for licenses for each description of work :—

For the manufacture and refining of saltpetre, including the eduction of salt therefrom, Rs. 50.

For the manufacture of saltpetre—

| | Rs. | A. | P. |
|---|---|---|---|
| In Behar ... .. ... | 0 | 4 | 0 |
| Elsewhere ... ... ... | 2 | 0 | 0 |

For the manufacture of sulphate of soda (khári) by solar heat in evaporating pans—

| | Rs. | A. | P. |
|---|---|---|---|
| In Behar ... ... ... | 0 | 4 | 0 |
| Elsewhere ... ... ... | 10 | 0 | 0 |

For the manufacture of sulphate of soda (khári) by artificial heat—

| | Rs. | A. | P. |
|---|---|---|---|
| In Behar ... ... ... | 0 | 4 | 0 |
| Elsewhere ... ... ... | 2 | 0 | 0 |

For the manufacture of any other substance included under the term "saltpetre" in Section 3 of the Act—

| | Rs. | A. | P. |
|---|---|---|---|
| In Behar ... ... ... | 0 | 4 | 0 |
| Elsewhere ... ... ... | 2 | 0 | 0 |

43. The license for the manufacture of crude saltpetre or other substance included under the term "saltpetre" in Section 3 of the Act, to be granted to persons not licensed to refine the "saltpetre" or educe salt therefrom, shall contain the name of the person to whom it is given, and shall specify the place where such manufacture may be carried on, and the approximate quantity of saltpetre which should be manufactured, and shall contain the following conditions :—

*1st.*—That the provisions of the Act and of all rules and subsidiary rules duly made under it shall be strictly observed by the licensee, his agents and servants.

*2nd.*—That no process for refining the crude saltpetre shall be resorted to.

*3rd.*—That the plant specified in the license shall not be altered, or the locality of the works changed, without written sanction from the Salt-revenue Officer in charge of the circle.

And shall be subject to such further conditions as the Commissioner may, from time to time, prescribe for the protection of the Government Revenue.

44. The license for the manufacture and refinement of saltpetre and for the eduction of salt therefrom shall contain the name of the person to whom it is given, and shall specify the place where such refinement of saltpetre and eduction of salt may be carried on, and the approximate quantity of saltpetre to be refined, and shall also contain the following conditions :—

*1st.*—That the provisions of the Act, and of all rules and subsidiary rules duly passed under it, shall be strictly observed by the licensee and his agents and servants.

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*2nd.*—That the refinery buildings and surrounding walls shall be kept in good repair to the satisfaction of the Salt-revenue Officer in charge of the circle and so as to afford full security for the Government Revenue.

*3rd.*—That the number of pans and boilers specified in the license shall not be altered without the written sanction of the Salt-revenue Officer in charge of the circle.

*4th.*—That the licensee shall maintain a daily register showing the quantity of crude saltpetre purchased or manufactured, of the saltpetre refined therefrom, and of the salt educed from such saltpetre, and of the quantities of any of these substances which may be sold and removed from the refinery.

*5th.*—That no saline substance other than refined saltpetre shall be removed from the refinery except with the written sanction of the Salt-revenue Officer of the circle, and if the substance is by law subject to the payment of duty, on payment of Rs. 2 per maund of such substance, provided that with the written sanction of the Salt-revenue Officer of the circle, any saline substance subject to the payment of duty, may, without such payment, be so removed for destruction at some convenient place outside the refinery under the supervision of the Salt-revenue Officer of the circle, or other Salt-revenue Officer named in the sanction.

[NOTE.—The above clause has been amended by Notification No. 4856, dated 9th September 1887, *Gazette of India* of 10th idem, Part I, p. 458].

And shall be subject to such further conditions as the Commissioner may, from time to time, prescribe for the protection of the Government Revenue.

45. All licenses granted under this chapter shall be for a period ending on or before the 31st July following the date of their issue, and shall on expiry be returned to the Salt-revenue Officer.

46. Duplicates of licenses lost or destroyed during the period of their currency may be obtained on payment of one-quarter of the original license fee.

47. Every licensee shall produce his license for inspection when called upon to do so by any officer of the Salt-revenue Department not below the rank of Sub-Inspector or by any subordinate deputed by him for the purpose.

48. All licensed works and all premises connected therewith shall be open at all times by day or night to the inspection of any such officer or subordinate deputed by him for the purpose.

49. All diaries, registers, books of account and the like, connected with the business of licensed works shall at all times be open to the inspection of any such officer or of any subordinate deputed by him for the purpose.

50. All salt shall be daily weighed and placed in a bonded store-house under lock and key, which key shall remain in possession of the Salt-revenue Officer attached to the refinery.

Subject to such directions as the Commissioner may give from time to time, it shall be at the discretion of the Inspector or Sub-Inspector, from time to time, to cause such salt to be weighed in his presence and removed from the bonded store-house. The licensee shall within twenty-four hours subsequent to such weighment and before the removal of the salt, pay the duty liable thereon.

51. When salt has thus been weighed and the duty paid, it shall with all possible despatch be removed to a distance of more than one hundred yards from any part of the refinery premises under a pass signed by the said Inspector or Sub-Inspector.

The pass shall be current for such period, not exceeding twenty-four hours, as may be deemed necessary for the removal of the salt.

A pass shall not be granted for a less quantity than twenty maunds, except for the purpose of emptying the store-house.

52. Except as hereinbefore provided, or with the permission of the Assistant Commissioner of Salt-revenue, no person shall possess any salt at any place within the limits of, or within one hundred yards from, the nearest point of any saltpetre manufactory or refinery and its appurtenances.

53. If any licensee under the foregoing rules fails during the period of the license to carry on effective working at the place at which he is licensed to carry on the same, the licensing officer may suspend the license until the licensee is prepared to resume effective working there.

*Seizure, disposal or destruction of things liable to be seized or destroyed under the Act.*

54. In all cases in which illicitly manufactured salt or saltpetre is seized by any Salt-revenue Officer, below the grade of Inspector, such officer shall at once proceed with the salt or saltpetre so seized, and any person concerned in the manufacture that he may have been able to arrest, and any other persons found in the seizure, to the Sub-Inspector, who he may be able to

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secure, to the nearest police post. The senior officer present at such police post shall receive from the seizing officer the salt or saltpetre so seized, and in the presence of witnesses and accused shall, after weighing and recording the weight of each, take from each distinct kind or quality of salt or saltpetre seized (if there be more than one such kind or quality), two samples of not less than one tola each which he shall seal with the official seal of the police station and after numbering them deliver them to the officer who made the seizure, recording at the same time a note on the printed form of seizure which will be presented to him, specifying the total weight of each kind seized, according to the weighments made before him, and the corresponding numbers of the samples. The remainder of the salt or saltpetre shall be sealed up with the seal of the officer who made the seizure, and of the police station, and shall remain in the malkana or other secure place in such station till such time as a written order shall be sent by the Inspector of the circle, either for the destruction of the articles seized, which shall be carried into effect by the officer presenting such request in the presence of some officer of the police station, and the same certified on the reverse of the order, or for the delivery of the same or part thereof, as the case may be, to the bearer of the order for production in Court.

55. When a siezure is made by an Inspector in person, he may either follow the foregoing procedure, deputing one of his subordinates present at the seizure to take the salt or saltpetre to the station and receive the samples, or he may himself on the spot take out and seal up the samples and the rest of the seized salt or saltpetre with his own official seal. He may then either take the salt or saltpetre seized with him to deposit where he considers it will be safest, or send it for deposit to the nearest or most accessible police station, to be kept as in the previous case till further orders. If, however, the Inspector himself seals the salt or saltpetre, he must, in the event of the identity of the salt or saltpetre produced in Court being denied by the accused, be prepared to attend and prove the same in person.

56. When anything is seized and detained under the Act, or the rules made under the Act, it shall not be released until all duty, penalties, and charges due on account thereof have been paid by the owner to the Salt-revenue Officer who is in possession of such thing.

If the thing is reported for confiscation, it shall not be released unless orders for the release are received from competent authority.

57. If an animal is so seized and detained, the owner shall provide for its due care and keep, in default of which the animal may be sold to defray charges.

58. If orders are received from competent authority for the release of anything seized and detained, and no duty or penalty is payable in respect of such thing, it shall at once be given up to the owner or his agent on his paying all charges incurred.

59. Should no one be present to receive the thing released, the officer of Salt-revenue in charge shall do his best to give notice to the owner of the order of release, and shall cause a similar notice to be affixed on the office premises and at the Assistant Commissioner's office.

If within two calendar months from the date of the notice no person entitled to receive the thing claim it, and pay all charges incurred, it shall be sold, and the proceeds placed in deposit.

After a further period of three calendar months, the money shall be forfeited to Her Majesty.

60. If any duty is leviable or penalty is imposed by competent authority in respect of the thing seized, unless such duty or penalty, together with all charges incurred, be paid within three days of the receipt of the orders of competent authority for release subject to such payment, the thing shall be sold, and from the proceeds the duty, penalty, and charges shall be deducted, and balance made over to the owner or his agent.

Should no one be present to receive the money, notice, as under Rule 59, shall be given, the money being kept in deposit for three calendar months.

If not claimed within the period, it shall be forfeited to Her Majesty.

61. When orders are received from competent authority for the confiscation of anything seized and detained, it shall, with all convenient despatch, be sold or destroyed as the Assistant Commissioner of Salt-revenue may direct.

62. When a Magistrate orders the confiscation of works, materials, or implements, under Section 9 of the Act, they shall be sold or destroyed by dismantling or otherwise under the orders of the Assistant Commissioner of Salt-revenue.

*Appeals.*

63. Any person who may be dissatisfied with an order passed by the Inspector of a circle may appeal to the Assistant Commissioner of the Division, and any person dissatisfied with an order passed by an Assistant Commissioner, may appeal to the Commissioner, whose decision shall be final.

*Subsidiary Rules and Forms.*

64. The Commissioner of Salt-revenue may make subsidiary rules and prescribe all forms necessary for the administration of the Act and these Rules.

(*Government of India Notification No.* 1892, *dated 27th June* 1884, *Gazette of India of 28th idem*).

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# ACT No. XIV of 1882.

(*Passed on the 17th March* 1882).

An Act to consolidate and amend the Laws relating to the Procedure of the Courts of Civil Judicature.

NOTES.—(A). It has not been thought necessary to print the Civil Procedure Code in the present collection. The Act came into force on the 1st June 1882, but all notifications, rules &c., issued under the repealed Acts are, wherever they are consistent with the present Code saved by S. 3.

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(B).—The following notifications have been issued by the Local Government under Act X of 1877 :—

No. 3857.—In exercise of the power conferred by Section 37 of the Code of Civil Procedure, the Honorable the Lieutenant-Governor is pleased to declare the following persons to be recognized agents of parties.

(*a*).—Persons holding general powers-of-attorney from parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application, or act is made or done, authorizing them to make and do such appearances, applications, and acts on behalf of such parties.

(*b*).—Mukhtars duly certificated under any law for the time being in force and holding special powers-of-attorney authorizing them to do, on behalf of their principals, such acts as may legally be done by Mukhtars.

(*c*).—Persons carrying on trade or business for, and in the names of parties not resident within the local limits of the jurisdiction of the Court, within which limits the appearance, application, or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.

(*d*).—Persons specially authorized by parties to appear and act on their behalf in any particular suit: Provided such persons are agents authorized for the occasion only, and are not practitioners acting in evasion of the law regulating the admission and enrolment of Pleaders and Mukhtars: Provided also that it shall be in the discretion of the Court to refuse to permit any such person so to appear or act.

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No. 3858.—In exercise of the power conferred by Section 269 of the Code of Civil Procedure, the Honorable the Lieutenant-Governor is pleased to make the following rules for the custody, while under attachment of live stock and other moveable property :—

1. Live stock and other property which are bulky or not readily portable shall, after seizure by the Nazir or his officer, be made over, when practicable, to the custody of a village lambardar, or such other respectable person as will undertake to keep such property subject to the orders of the Court.

2. Light and readily portable property of all kinds, and especially valuable property of small bulk, such as jewels, &c., shall, after seizures, be taken to the head-quarters of the Court executing the decree and be there made over to the custody of such officer as the Court may direct.

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No. 3860.—In exercise of the power conferred by Section 336 of the Code of Civil Procedure, the Honorable the Lieutenant-Governor is pleased to direct that whenever a judgment-debtor is arrested in execution of a decree for money and brought before the Court under the said section, the Court shall inform him that he may apply under Chapter XX of the said Code to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his application, and if he places all his property in possession of a receiver appointed by the Court.—(*Notifications Nos.* 3857, 3858, 3860, *dated 3rd October* 1877, *Punjab Gazette of 4th idem*).

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(C).—The following notifications have been issued under Act XIV of 1882 :—

(*a*).—Under Section 197 of the Code of Civil Procedure, 1882, the Judges of the Chief Court of the Punjab are pleased to appoint the officer who, for the time being, discharges the duties of the office of Deputy Registrar of the said Court, to administer the oath to declarants in affidavits under the said Code (*Chief Court Notification No.* 4423, *dated* 19*th December* 1887, *Punjab Gazette of* 22*nd idem, Part III, p.* 1318).

(*b*).—In exercise of the power conferred by Section 327 of the Code of Civil Procedure, Act XIV of 1882, and with the previous sanction of the Governor-General in Council, the Hon'ble the Lieutenant-Governor is pleased to make the following modifications of the rules which were continued in force by the Notification of the Punjab Government No. 3859, dated the 3rd of October 1877, issued under the corresponding provisions of Act X of 1877.

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1. No land which is applied to agriculture or pastoral purposes, and no interest in such land, shall be sold in execution of a decree of a Civil Court, without the previous sanction of the Commissioner of the Division; and where the land or interest in land, proposed to be so sold, is hereditary or joint-acquired property, without the previous sanction of the Financial Commissioner.

2. Sales of such land, or of any interest in such land, in satisfaction of a decree of a Court of Civil Judicature, shall be made by the Deputy Commissioner upon the requisition of the Court executing the decree. (*No.* 1297 *S.*, *dated* 10*th September* 1885, *Punjab Gazette of same date, Part I, p.* 1953).

See also Financial Commissioner's Circular No. 47 of 1885.

(*c*). In exercise of the powers vested in him by Section 360 of the Civil Procedure Code, 1882, the Hon'ble the Lieutenant-Governor is pleased to invest the Courts hereinafter specified with the powers conferred on District Courts by Sections 344 to 359 (both inclusive) of the said Code :—

(1). The Courts of Small Causes at Lahore, Amritsar and Delhi.

(2). The Court of the Subordinate Judge in each of the Districts hereinafter specified, when such Judge is a Subordinate Judge of the first class and has been invested with appellate powers in such District, under Section 42 of the Punjab Courts Act, 1884, namely in the Civil Districts of Hissar, Rohtak, Karnal, Jullundur, Gurdaspur, Gujranwala, Ferozepore, Jhelum, Gujrat, Shahpur, Jhang, and Dera Ghazi Khan. (*No.* 1172, *dated* 26*th December* 1884, *Punjab Gazette of* 1*st January* 1885, *Part I, p.* 8).

(*d*). Under the provisions of Section 417, Civil Procedure Code, the Hon'ble the Lieutenant-Governor is pleased to authorize all Deputy Commissioners in the Punjab to act *ex-officio* for Government in respect of all Judicial proceedings by or against the Government in which they may receive instructions from the Financial Commissioners or the Government Advocate.

2. In the absence of the Deputy Commissioner from head-quarters the Senior Assistant Commissioner or Extra Assistant Commissioner there present is hereby authorized to exercise the power hereby conferred on the Deputy Commissioner. (*No.* 1037, *dated* 15*th December* 1885, *Punjab Gazette of* 17*th idem, Part I, p.* 1154).

(*e*). Under the provisions of Section 539 of the Code of Civil Procedure (Act XIV of 1882), the Hon'ble the Lieutenant-Governor is pleased to direct that the powers conferred by that section on the Advocate-General may be exercised by all Deputy Commissioners for the time being in the Punjab. (*No.* 783 *A.*, *dated* 21*st October* 1885, *Punjab Gazette of* 22*nd idem, Part I, p.* 769).

(*f*). *Rules made by the Chief Court of the Punjab in exercise of the powers conferred on it by Section* 647, *Code of Civil Procedure, for the admission of affidavits in the Chief Court and the Subordinate Courts of Civil Jurisdiction in the Punjab in proceedings other than suits or appeals.*

In any proceeding in a Court of Civil Jurisdiction in the Punjab other than a suit or appeal to which the provisions of Chapter XVI and the first clause of Section 647 of the Code of Civil Procedure apply, it shall be competent to the Court or Judge exercising jurisdiction therein to permit or to direct, except when otherwise provided by any law or rule for the time being in force, that any particular fact or facts may be proved, or evidence upon any application may be given by affidavit.

2. The provisions of Sections 194, 195 and 196 of the said Code shall apply, so far as may be, to all affidavits admissible under the foregoing rule. (*Chief Court Notification No.* 829, *dated* 25*th February* 1887, *Punjab Gazette of* 3*rd March* 1887, *Part III, p.* 225).

(*g*). *Rules framed by the Financial Commissioner, Punjab, under Section* 652 *of the Code of Civil Procedure, under the authority conferred by Section* 53 (2) *of the Punjab Courts Act*, 1884.

1. Every petition for revision under Section 622 of the Code of Civil Procedure presented shall be accompanied by a certified copy of the judgment and decree, revision of which is applied for.

2. Every memorandum of further appeal and every petition for revision under Section 622 of the Code of Civil Procedure presented to the Financial Commissioner shall be accompanied by a certified copy of the grounds of appeal taken in the Lower Appellate Court when

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in such memorandum or petition an objection is taken to the effect that the Lower Appellate Court did not duly dispose of the first appeal. (*Punjab Gazette of 7th October* 1886, *Part III*, *p.* 1142).

(*h*). Rules framed by the Chief Court of the Punjab under Section 652, Civil Procedure Code and Section 12 of the Punjab Courts Act, 1884, regulating applications in the said Court under Chapter XXI of the Code of Civil Procedure, in suits and appeals, and other proceedings of a Civil nature to which Chapter XXI is applicable.

(i).—*General Rules as to Suits and Appeals.*

1. Every application,—

(*a*) under Section 363 or Section 365, Civil Procedure Code, by a person claiming to be the legal representative of a deceased plaintiff or appellant to enter his name on the record in place of the deceased party;

(*b*) under Section 368, Civil Procedure Code, by a plaintiff or appellant to make the legal representative of a deceased defendant or respondent a party to the record in place of the deceased;

(*c*) under the 2nd clause of Section 368 by a defendant or respondent;

shall, in addition to any particulars required by law, state approximately the date of the death of the deceased party.

2. Every application under Section 371 by a person claiming to be the legal representative of a deceased, or bankrupt, or insolvent plaintiff or appellant, for a order to set aside an order of abatement or dismissal, shall state the cause which prevented him from continuing the suit or appeal.

3. Every application of the kinds specified in Rules 1 and 2, and every application under Section 372 to make the petitioner or some other person an additional or substituted party in a suit or appeal, shall, as to the allegations of fact contained in such application, be verified by affidavit.

4. Every application under Chapter XXI shall ordinarily be presented to the Deputy Registrar, who shall cause the date of presentation to be entered on the application.

5. The Deputy Registrar shall examine the application, and, if the application does not satisfy the requirements of the Code, or of these rules in that behalf, may return the same to the person presenting it for amendment and re-presentation within a time to be noted on the application under his signature, or may refer the application to a Judge of the Court for orders.

6. Any such application may be presented to a Judge or to a Bench on the date fixed for hearing of a suit or appeal; but, unless sufficient cause be shown for the application not having been presented in the ordinary course to the Deputy Registrar before such hearing, the applicant will become liable to pay the costs of any adjournment or postponement caused by omission to present the application to the Deputy Registrar.

7. When an application to place the legal representative of a deceased party, or the name of an additional or substituted party on the record, is granted by a Judge or Bench of Judges (as the case may be), the Deputy Registrar shall cause a formal order to the proper effect to be drawn up for signature by the Judge or the Bench, and shall be responsible that the record of the proceedings in this Court is amended in conformity with such order.

8. Every person admitted on the record as the legal representative of a deceased plaintiff, or deceased defendant, shall be described as "the legal representative of A. B., deceased plaintiff" (or defendant, appellant or respondent as the case may be), and similarly of an insolvent or bankrupt plaintiff.

(ii).—*Special Rule as to Suits.*

9. Applications under Chapter XXI in original suits when presented to the Deputy Registrar shall (subject to Rule 5) be laid by him for orders before a Judge, who shall ordinarily be the Judge before whom the suit to which it relates is pending.

(iii).—*Special Rules as to Appeals.*

10. When an application of the kinds specified in Rule 1 and Rule 2 is presented to the Deputy Registrar in relation to a pending appeal, and is deemed by him sufficient, without or after amendment, and the Deputy Registrar does not deem it necessary to refer the application for the order of a Judge, the Deputy Registrar is hereby authorized to make an order granting the application "subject to all just exceptions, and to confirmation by the Court," and to cause the necessary notices to be issued to the parties concerned to show cause on the date fixed for hearing the appeal

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11. Every application under Chapter XXI, not falling within Rule 10, or not granted under that rule, shall be laid before a Judge for orders.

(iv).—*Applications for Review and Revision.*

12. The foregoing rules shall apply, so far as may be, to applications under Chapter XXI in relation to proceedings in review of judgment (according as the proceeding is in an original suit or appeal), and to proceedings in revision.

(v).—*Proceedings other than Suits and Appeals.*

13. The foregoing rules shall apply to all proceedings of a civil nature other than suits or appeals to which Chapter XXI of the Code is applicable.

(vi).—*General Rule.*

14. Nothing in the foregoing rules shall be deemed to require that an order on any application under Chapter XXI shall be made or signed by more than one Judge of the Court. *(Chief Court Notification No 2740, dated 5th July 1888, Punjab Gazette of 12th idem, Part III, p. 746).*

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(*i*).—Rules framed by the Chief Court of the Punjab under Section 652, Civil Procedure Code, and Section 12 of the Punjab Courts Act, 1884, regulating the representation in the Chief Court of minors and persons of unsound mind, under Chapter XXXI of the Code of Civil Procedure, in suits and appeals, and other proceedings of a civil nature to which Chapter XXXI is applicable.

REPRESENTATION OF MINORS.

(i).—*General Rules for Suits and Appeals.*

1. Whenever a Judge or Bench of Judges sees cause to appoint a next friend for a minor plaintiff or appellant, or a guardian for the suit or appeal for a minor defendant or respondent, an order in the form annexed, or to the like effect, shall be prepared by the Deputy Registrar for signature by the Judge or Bench making the appointment, and shall, after signature, be filed with the record.

2. The Deputy Registrar is hereby authorized to cause the title of the suit or appeal to be corrected accordingly.

(ii).—*Special Rules for Appeals.*

3. In every appeal presented to the Deputy Registrar in which it appears from the memorandum of appeal or the copies of the judgments filed therewith that the appellant or respondent, or any of the appellants or respondents, is a minor, the Deputy Registrar shall cause a note to be made on the appeal for the information and orders of the Judge or Bench of Judges exercising jurisdiction in the appeal.

4. No notice in relation to an appeal shall be issued to any respondent who, from the memorandum of appeal, or the proceedings of the lower Courts, appears to be a minor, unless and until a guardian for such minor has been appointed by an order of Court, or unless the issue of such notice be authorized by special order of a Judge.

(iii).—*Applications for Review and Revision.*

5. Rules 1—4 shall apply, so far as may be, to proceedings in review of judgment, or in revision.

(iv).—*Proceedings other than Suits or Appeals.*

6. Rules 1—5 shall apply, so far as may be, to proceedings of a civil nature other than suits, or appeals, to which Chapter XXXI is applicable.

(v).—*Representation of persons of unsound mind.*

7. Rules 1—6 relating to the representation of minors shall apply, *mutatis mutandis*, to the representation of persons of unsound mind adjudged to be so under Act XXXV of 1858, or under any other law for the time being in force.

(vi).—*General.*

8. Rules 1—7 are subject to the enactment contained in Section 464 of the Code of Civil Procedure.

9. Nothing in the foregoing rules shall be deemed to require that any order made thereunder shall be made or signed by more than one Judge of the Court.

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*Form mentioned in Rule* 1.

(1). Let C. D. be appointed next friend of the minor A. B. by whom he may prosecute this suit (or appeal).

(2). Let C. D. be appointed guardian of the minor A. B. by whom he may defend this suit (or appeal).

(*Chief Court Notification No.* 2741, *dated 5th July* 1888, *Punjab Gazette of* 12*th idem, Part III, p.* 747).

(*j*).—Rules made by the Chief Court of the Punjab in exercise of the powers conferred on it by Section 652, Code of Civil Procedure.

1. Every memorandum of further appeal, and every petition for revision under Section 622 of the Civil Procedure Code, presented to the Chief Court, shall be accompanied by a certified copy of the grounds of appeal taken in the Lower Appellate Court, when in such memorandum or petition an objection is taken to the effect that the Lower Appellate Court did not duly dispose of the first appeal.

2. Every petition for revision under Section 622 of the Civil Procedure Code shall when the suit has been decided in appeal by a Divisional Court and is not a small cause not exceeding Rs. 500 in value or amount, be accompanied by a certified copy of the order of the Divisional Court refusing to grant a certificate under Section 40 of the Punjab Courts Act, 1884. (*Chief Court Notification No.* 2790, *dated* 10*th July* 1888, *Punjab Gazette of* 19*th idem, Part III, p.* 764).

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(D).—For the list of Chiefs, and their sons exempted under S. 641 from personal appearance in the Civil Courts of the Punjab, and the list of titular chiefs and gentlemen similarly exempted, see *Notification No.* 4560 *dated* 16*th December* 1881, *Punjab Gazette of* 22*nd idem.*

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(E).—The circulars of the Chief Court relating to Civil Procedure, will be found collected in Chapter I of the volume of Judicial Circulars (edition of 1887, pp. 1—136).

See also Book Circulars II, IV and VI of 1887, and VIII, IX, X of 1888.

The Rules made by the Chief Court under S. 612 for regulating the practice and proceedings in regard to the admission of appeals to Her Majesty's Privy Council are contained in Judicial Circular No. CXXIII.

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(F).—Act XIV of 1882 has been extended to the Scheduled districts of the Punjab by *Government of Indina Notification No.* 69 *I. J. dated 1st June* 1882 -(*Gazette of India of* 3*rd idem*).

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(G).—In supersession of Punjab Government Notification No. 7957 of the 19th November 1874, circulated with Financial Commissioner's Book Circular No. XX-46 of the same date, the following Revised Rules connected with suits by or against Government or public officers, together with revised instructions concerning references to the Government Advocate in matters not provided for by the rules prescribed by Government affecting magisterial officers, are published for information:—

PART I.—REFERENCES TO THE GOVERNMENT ADVOCATE.

Who may refer legal questions to Government Advocate.

1. References on legal questions are to be submitted to the Government Advocate by or through the following officers only:—

The Financial Commissioner, Punjab;
The Secretary to Government, Civil Department;
The Secretary to Government, Public Works Department;
The Secretary to Government, Military Department;
The Director, North-Western Railway;
The Joint Secretary, Irrigation Department; and
All Heads of Departments.

Special cases.

2. In special cases other officers are authorized to communicate direct with the Government Advocate, but this must only be done on one of the following grounds:—

*First*, where the matter is urgent and communication through the usual channels would be prejudicial to the interests of Government;

*Secondly*, where the matter is connected with any suit or other judicial proceeding in which the Government Advocate is already engaged;

*Thirdly*, on a reference from the Government Advocate;

*Fourthly*, under Rule 36.

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Usual procedure for other officers than those specified in Rule 1.

3. Save as provided in Rule 2, all legal questions which officers, other than those specified in Rule 1, desire to refer to the Government Advocate shall, as at present, be submitted to the Financial Commissioner, by whom the opinion of the Government Advocate will be obtained thereupon, if necessary.

Questions which may not be referred to the Government Advocate.

4. Legal questions arising before judicial officers as such shall not be referred by them to the Government Advocate.

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PART II.—SUITS, &c.

*A.—General Rules.*

Definitions.

5. IN these rules "suit" means a suit by or against Government or public officers in their official capacity, or which is brought or defended by public officers at the public expense, and includes an appeal and any civil judicial proceeding in which Government or a public officer in his official capacity is a party or has any interest.

Powers of Financial Commissioner.

6. The Financial Commissioner has general charge of all suits. He is entitled to call for explanations, reports, &c., from all officers of Government in connection with Government cases.

Special rules of procedure applicable.

7. The special rules of procedure relating to suits are contained in Chapter XXVII of the Code of Civil Procedure (Act XIV of 1882), to which the attention of all officers is particularly directed.

Government Pleader.

8. The Deputy Commissioner in each district is the Government Pleader for the purpose of Section 419 of the Code of Civil Procedure.

Adjournments.

9. In connection with Section 420, Judicial Circular XIII of the Chief Court should be referred to.

General exception in case of emergency.

10. Whenever immediate action is necessary in connection with a suit in order to prevent injury to Government or to the officer concerned, it shall be competent to the Deputy Commissioner, or in his absence from head-quarters the Senior Assistant Commissioner or Extra Assistant Commissioner there present, to take the said action without previous sanction. But in such cases the Deputy Commissioner shall immediately comply with these rules, and a full explanation shall be submitted to the Financial Commissioner through the person in charge of the case (if any) of the circumstances which rendered the unusual procedure necessary.

All the rules herein contained shall be deemed subject to this exception.

Undivided management of legal business.

11. When once any legal business has been placed by the Financial Commissioner in the hands of the Government Advocate or of any other person to conduct it, no further action whatever relating to it shall be taken by the officer at whose instance the business is undertaken, *except in communication with and under the advice of such person.*

All communications with opposite party to be *without prejudice.*

12. All communications to the opposite party on the subject of matters in respect of which it is anticipated that a suit is likely to ensue shall be headed "Without Prejudice,"—and, if oral, shall be stated to be so.

Departmental assistance in Court to person in charge of case.

13. When a suit is to be heard, some responsible officer of the Department concerned, thoroughly conversant with the facts of the case, shall, if the person conducting it on behalf of Government deem it necessary, be deputed to be present to instruct as to the truth concerning matters which arise unexpectedly, and to direct attention to any documents or other evidence that may become important at each stage of the case.

Copies of documents when to be granted

14. Except with the previous sanction of the Financial Commissioner, no copies of documents in the possession of Government shall be supplied to any person with whom there is a likelihood of any suit arising.

When notice to produce documents in the charge of a Head of Department is received by him, he shall consider whether they include communications made in official confidence, the production of which would be injurious to the public interest. To the production of such documents he shall object as falling within the principles of Section 124 of the Indian Evidence Act.

All correspondence and all Resolutions of Government on the subject of suits are strictly confidential. No officer shall grant copies of any such documents during the pendency of the suit, and no such copies shall be granted at any time after the final decision of the suit without the previous sanction of the Head of the Department.

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Departmental responsibility to assist throughout the case.

15. Prompt attention shall be paid by the Department or officer concerned to all communications during the course of a suit received from the person appointed by Government to conduct it.

*B.—Suits, &c., by Government.*

Financial Commissioner's previous sanction necessary to all suits by Government.

16. No suit on behalf of Government shall be instituted except—

(1) by order of the Local Government; or

(2) with the previous sanction of the Financial Commissioner.

Provided that:—

(*a*) Cantonment Committees shall be competent to institute and conduct any suit for the recovery of sums not exceeding Rs. 50 due to them, without the previous sanction of the Local Government or of the Financial Commissioner in cases where (1) the determination of a principle is not involved, and (2) no legal difficulty is anticipated; and

(*b*) Superintendents of Jails may similarly institute and conduct any suit for the recovery of debts due to jail manufactories, provided that (1) the consent of the Inspector-General of Prisons has been previously obtained, and (2) the subject matter of the suit does not exceed Rs. 50.

In all such cases a power-of-attorney signed by the Financial Commissioner must be obtained authorizing some person to sue on behalf of Government.

Procedure when an officer considers a suit necessary. Contents of his report.

17. Any officer who considers that a suit should be instituted on behalf of Government shall submit a clear and detailed report through the ordinary channel of communication to the Head of the Department, showing—

(*a*) the circumstances which in his opinion render the institution of the suit necessary, and precisely when and where they each occurred;

(*b*) the relief sought;

(*c*) the subject of the claim;

(*d*) the steps which have been taken to obtain satisfaction of the claim without bringing a suit;

(*e*) the pleas or objections, if any, which have been urged by the proposed defendant against the claim;

(*f*) the evidence, both oral and documentary, which is believed to be obtainable, and which it is proposed to adduce in support of the claim;

(*g*) whether the documents (if any) referred to in (*f*) are registered or not;

(*h*) whether or not the circumstances of the person against whom it is proposed to institute the suit are such as to render it likely that execution will be obtained of any decree that may be given against him;

(*i*) the evidence, both oral and documentary, which, so far as is known, the proposed defendant will be able, and is likely, to adduce in his defence;

(*j*) whether the documents (if any) referred to in (*i*) are registered or not;

(*k*) any other facts which the officer considers material, *e. g.*, whether there are any special reasons for the institution of the suit apart from the amount actually claimed; whether other similar claims will hinge upon its decision; or the like.

Copies with translations to accompany report.

18. Copies of all documents referred to in Rule 17 (*f*) and (*i*) and of all correspondence and written proceedings, whether in English or in the Vernacular (together with translations in the latter case), connected with the proposed suit, should accompany the report with an exact list of the same.

Precaution when original documents sent.

19. When for any reason it is thought necessary to forward in original any of the documents referred to in Rule 17 (*f*) or (*i*), (1) copies examined by the officer submitting the report shall be kept by him, and (2) the report shall be forwarded under registered cover.

Copies to be full and exact.

20. The copies submitted shall be absolutely complete in all respects, reproducing every particular contained in the originals, whether of a formal nature or not; and the officer forwarding them shall personally satisfy himself on this point.

Maps and plans.

21. Where a map or plan would contribute to a proper understanding of the claim, this shall also be submitted.

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Suits to be filed in the last resort only.

22. No suit shall be instituted on behalf of Government except in the last resort, when all other means of obtaining satisfaction have failed. None shall therefore be recommended for institution until the proposed defendant has had ample opportunity given to him of stating his view of the case and of coming to some agreement for the settlement of the Government claim.

By whom report to be submitted to Financial Commissioner.

23. When the subject of the proposed suit is connected with District administration, and belongs to no particular Department, the report required by Rule 17 shall be prepared by the Deputy Commissioner, and shall be submitted by him to the Financial Commissioner. When the proposed suit is connected with any particular Department, and the report is submitted as above provided, the Head of the Department concerned shall transmit it to the Financial Commissioner direct.

Submitting officer to examine report and state his own opinion.

24. In each case the officer submitting the report to the Financial Commissioner shall satisfy himself before forwarding it that these rules have been fully complied with, and shall also fully and clearly state his own opinion on the proposed suit, with his reasons for the same.

Further information to be promptly supplied, if called for.

25. Should further information, whether in the form of a supplementary report or otherwise, be called for by the Financial Commissioner or by the Government Advocate, it shall be supplied as promptly as possible, and conformably to these rules so far as they are applicable.

Financial Commissioner will issue orders regarding institution.

26. The Financial Commissioner will decide whether the proposed suit shall be brought or not, and if the decision be in the affirmative, he shall make arrangements for its management.

*C.—Suits, &c., by Public Officers.*

No suits to be instituted by public officers except with the sanction of Government.

27. The sanction of the Local Government shall be obtained before any public officer has recourse to the Courts for the vindication of his public acts, or of his character as a public functionary.

Procedure when an officer deems a suit necessary.

28. When a public officer considers that a suit should be instituted for the vindication of his public acts or of his character as a public functionary, he shall submit a report conformably to the directions contained in Rule 17.

Orders of Government to be obtained by Financial Commissioner.

29. The Financial Commissioner will forward the report, together with his opinion, to the Local Government for orders as to whether the suit (1) shall or shall not be brought; and (2) if brought shall be conducted at the public expense or at that of the officer concerned.

Action thereupon.

30. If sanction be given by the Local Government to the conduct of the suit at the public expense, the Financial Commissioner shall arrange therefor. If such sanction be not given, the officer concerned shall be informed accordingly, when if the institution of the suit has been sanctioned by the Local Government, he shall be at liberty to make his own arrangements in connection therewith.

*D.—Suits &c., against Government.*

Notice of action under Section 424 of Act XIV of 1882. Object thereof and correlative obligation on all public officers.

31. After receipt of notice of suit (see Section 424 of the Code of Civil Procedure) it is incumbent on all officers of Government to make all reasonable attempts to bring about an amicable adjustment of the case on the principle that no private person having a just claim against Government should be compelled to resort to litigation to enforce it. Subject to this understanding the following rules have been framed.

How the notice must be served, and how to be dealt with when served.

32. If the notice of suit is served on the Deputy Commissioner, he shall, if the matter is connected with District administration and within his control, proceed as provided in Rule 35, and, if the matter is connected with a Department, not within his control, as for example, the Irrigation Department, State Railway, and the like, forward it at once, *in original*, to the Head of the Department concerned.

If the notice is served on a Secretary to the Local Government, or on any officer not prescribed under Section 424 of the Civil Procedure Code, he shall forward it at once, *in original*, to the Deputy Commissioner or Head of Department as the case may be.

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Endorsement to be made on notice when served.

33. The date and manner of service or receipt of the notice of action shall forthwith be endorsed on it by the officer on whom it is served and to whom it is forwarded, or if he is absent, by the head of the office at which it is left or received, and the said endorsement shall be signed and dated by the officer himself or by the head of his office if he is absent. Under no circumstances shall any notice of action, on whomsoever it is served, be returned in original to the person by whom it is given.

Copy of notice to be kept when original forwarded.

34. An attested copy of the notice, and of the endorsement thereon, shall be kept when the original is forwarded by the officer on whom it is served.

Officer concerned how to proceed on receipt of notice.

35. The Deputy Commissioner, or the Head of the Department concerned, on receiving any such notice shall give the matter in question his immediate and most careful attention generally, and with special reference to Rule 31.

Reference to Government Advocate if necessary.

36. If the officer concerned is in doubt at this stage as to any legal point, he should submit the case to the Government Advocate for opinion. Every endeavour must be made to dispose of the matter within the period of two months from the delivery of the notice allowed by the Code of Civil Procedure before the threatened action can be instituted. If, however, this is not accomplished and the suit is filed, the officer concerned, while at the same time proceeding as hereinafter directed, shall nevertheless comply with the directions contained in this and the proceding rule as speedily as may be, but subject always to the provisions of Rule 11.

Procedure where threatened suit is known to be groundless.

37. If the threatened action is known to be groundless, or one which must undoubtedly be defended, if brought, no communication need be made to the person by whom the notice was given; but the officer concerned shall at once proceed to collect the information and papers, which will be afterwards required under Rules 45 and 46.

Tender.

38. When the officer concerned (after obtaining the advice of the Government Advocate, if necessary) is clearly of opinion that a certain portion, though not the whole, of the amount claimed is due but the suit has not yet been instituted, he should formally tender that sum to the claimant, *without* requiring him to give in return a receipt in full of all demands. When a suit has actually been instituted, no payments whatever shall be made except into Court, and through the person in charge of the case for Government. In making a tender under this rule, the officer concerned should inform the opposite party that, if the tender be declined, the fact of its having been made will be brought to the knowledge of the Court.

Procedure when summons wrongly served on departmental officers.

39. When a suit against Government has been filed, the summons *must*, in this Province, be served on the Deputy Commissioner of the District, who is the only person empowered by Government to receive service of process in such cases. If the summons in such a suit be directed to any other officer, whether he be the Head of the Department concerned or not, he should, in endorsing and returning it, inform the Court by letter that he is not empowered under Section 419 of the Code of Civil Procedure to receive service on behalf of Government. He should in no way recognize the service as effectual, *e. g.*, by applying for an adjournment: nor need he attend at the Court to the prejudice of his legitimate duties.

Deputy Commissioner's procedure when summons duly served on him.

40. When the summons has been duly served on the Deputy Commissioner, and a date less then two months distant has been fixed for the first hearing of the suit, he shall at once apply to the Court under Section 420 of the Code of Civil Procedure for an extension of the time to not less than two months, and in support of his application shall quote Chief Court Judicial Circular XIII. The Deputy Commissioner shall in any case apply for certified copies (*a*) of the plaint (where only, a concise statement of it has been received with the summons), (*b*) of all documents filed with the plaint, together with the list of the same prescribed by the Chief Court, (*c*) of any *list* of further documents relied on (referred to in Section 59 of the Code of Civil Procedure) filed with the plaint. If the Court decline to grant an extension of time applied for, the Deputy Commissioner shall forward, as soon as possible, direct a special report to the Financial Commissioner, or, in emergent cases to the Government Advocate direct, in order that steps may be taken to protect the interests of Government.

Deputy Commissioner's next step if suit be in his own Department.

41. If the suit is one connected with District administration, the Deputy Commissioner shall, on receipt of the copies referred to in Rule 40, act as prescribed by Rules 44—48.

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Deputy Commissioner's next step if suit be in another Department.

42. If the suit is one connected with any particular Department, the Deputy Commissioner shall as soon as the copies referred to in Rule 40 have been obtained, forthwith forward them, together with the summons (which as provided by Section 65 of the Code of Civil Procedure, shall be accompained by a copy of the plaint or a concise statement of its contents), with the date of the receipt of the summons by him noted on the back thereof, to the Head of the Department concerned, who shall act as prescribed by Rules 44—48.

In last case Deputy Commissioner to state whether notice of action received by him or not.

43. In complying with Rule 42, the Deputy Commissioner, if he has received no notice of action under Section 424, shall be particular to mention this fact.

Procedure of officer concerned if notice has not been received.

44. If no notice of action has been received (whether by service on the Deputy Commissioner or on a Secretary to the Local Government) the Deputy Commissioner or the Head of the Department concerned (as the case may be) shall immediately on receipt of the summons, copies, &c., as aforesaid, forward the same with a brief report to that effect to the Financial Commissioner, by whom arrangements will be made for the defence of the suit under Section 424, in order that the opportunity of investigating, and endeavouring to settle the claim out of Court, granted to Government by the Legislature as before explained, may be secured.

Procedure of officer concerned if notice has been received.

45. If notice of action (whether it appear to be an adequate notice or not) has been received, the Deputy Commissioner or the Head of the Department concerned shall proceed to collect, with the least practicable delay, if this has not already been done under Rules 35—37, all the information regarding the facts of the case which he can procure.

Report of officer concerned what to contain.

46. He shall then, as soon as possible, submit to the Financial Commissioner the following documents, together with an exact list of the same :—

(*a*) The notice of action, with a translation of the same (when it is in the Vernacular), the summons, and the copy of the plaint.

(*b*) A translation of the plaint (where it is in the Vernacular) into English, on half margin, each statement therein being marked with a letter (A, B, &c.) and notes being added in the margin stating whether each statement of fact therein is correct or not, and, if not, in what respect it is not so. When the requisite explanation cannot be thus compressed, reference should be made to a paragraph of an accompanying statement in which the matter should be fully discussed.

(*c*) The copies of documents and lists of documents if any filed with the plaint, and translations of the same, if in the Vernacular.

(*d*) Copies of all other documents procurable, which are believed to bear on the case either for the plaintiff or the defendant, with translations of the same if in the Vernacular, together with as accurate a description as may be of other documents (if any) believed to be relevant, but of which the contents cannot be precisely ascertained except through the Court.

(*e*) All the correspondence and written proceedings, whether in English or in the Vernacular (with translations of the latter), connected with the subject of the suit.

These documents shall be accompanied by a clear and detailed report, including—

(*f*) A full statement (1) of the circumstances which led to the suit, mentioning precisely when and where they each occurred ; (2) of the course which it is proposed to adopt, namely, whether to admit, compromise, or defend the suit, and of the reasons for the same.

(*g*) If it is proposed to defend the suit, a memorandum of the proposed defence also on half margin, showing clearly and fully how each of the allegations in the plaint is to be met, and the evidence which it is proposed to adduce for that purpose.

The report should also show—

(*h*) Whether the documents referred to in (*c*) and (*d*) are registered or not.

(*i*) The matters required by Rule 17 (*d*), (*e*), (*h*) (*mutatis mutandis*).

(*j*) The date fixed by the Court for the first hearing.

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Rules 19, 20 and 21 to apply.

47. The provisions of Rules 19, 20 and 21 shall apply, *mutatis mutandis*, to reports submitted under Rule 46.

Rules 25 and 26 also to apply.

48. The provisions of Rule 25 relating to suits brought by Government shall apply to suits brought against it; also, *mutatis mutandis*, Rule 26.

*E.—Suits, &c., against Public Officers.*

Notice of action necessary. Procedure to be observed.

49. When the officer considers that the suit should be defended at the public expense, the directions contained in Rules 19, 20, 25, 31, 33, 34, 35, 36, 37, 40 (substituting Section 423 for Section 420 therein), 44, 45 and 46, must be observed so far as they are applicable.

Orders of Government to be obtained by Financial Commissioner.

50. The Financial Commissioner will forward the report submitted to him as hereinbefore provided, together with his opinion, to the Local Government for orders as to whether the suit shall be defended at the public expense or whether the officer concerned shall be left to take such measures in the case at his own expense as he shall think fit.

Officers bound to satisfy Government why these suits should be defended at the public expense.

51. All officers are reminded that as they must *primâ facie* be prepared to personally defend themselves in respect of their acts when alleged to be illegal, it rests with them to satisfy the Local Government that they have used every effort to prevent litigation; also that the acts complained of were done (if done at all) with due care and attention and under circumstances justifying the defence of the suit at the public expense. In their own interests, therefore, it is incumbent on them to observe the provisions of these rules, where applicable to their case, as accurately and promptly as possible.

Action upon the orders of Government.

52. If the defence of the suit at the public expense is sanctioned by the Local Government, the Financial Commissioner shall arrange therefor. If such sanction is not given, the officer concerned shall be informed accordingly, and will be at liberty to make his own arrangements in connection therewith.

*F.—Appeals, &c., by Government or on behalf of Public Officers.*

In case of adverse decision, report to be submitted as to appealing, &c., (when recommended), or not.

53. When any suit has been decided wholly or partially against Government or the officer concerned and the person who conducted it for Government or for the said officer, or, if it was conducted by a private practitioner specially retained by Government for the purpose, when the Deputy Commissioner, or the Head of the Department (or, if the case concerns more then one Department, the Head of any such Department), or the officer concerned (as the case may be), is of opinion, on a perusal of the copies of the judgment and decree or other final order of the Court, supplied to him as hereinafter provided, that an appeal (or in unappealable cases, an application for revision) should be preferred, or that a review of judgment should be applied for, he shall, as soon as possible, prepare a report to that effect, showing the grounds of his opinion, and shall submit it to the Financial Commissioner together with the said copies, and (if he deem it necessary for a proper decision of the matter), with copies of the evidence and of all exhibits not previously submitted at an earlier stage, and also with a draft on half margin of the grounds on which he considers that the appeal or application should be based. If the copies of the evidence and exhibits could not be procured without considerable delay, the report shall not be detained pending their receipt, the period within which appeals and applications may be filed being limited by law. If he considers that no appeal or application should be made, he shall submit a report accompanied as aforesaid to that effect.

Report to be submitted by or through Government Advocate with his opinion.

54. When the Government or the officer concerned was not represented in Court by the Government Advocate, the report referred to in the last preceding rule shall be submitted through him, together with his opinion thereupon.

Financial Commissioner will issue orders in the matter.

55. The Financial Commissioner will decide whether an appeal or application shall be preferred or not, and if so, he will arrange as to the person by whom it shall be undertaken.

*G.—Appeals, &c., by the opposite party.*

Procedure when appeal, &c., preferred by opposite party.

56. If an appeal, or an application for revision, or for review of judgment, be preferred by the opposite party in any suit, the person who conducted it for Government or for the officer concerned shall, on receiving notice thereof, take such measures as in his judgment may be necessary for defending the case in the appellate or other

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Court. It shall not be necessary to apply for fresh instructions from the Financial Commissioner except in cases of doubt or difficulty, or unless it appear that, for any reason, the appeal or application ought not to be opposed, in which case the procedure laid down in Rules 53 and 54 shall be observed, and the Financial Commissioner will issue instructions. If the suit was conducted by a private practitioner specially retained by Government for the purpose, the Deputy Commissioner, or the Head of the Department (or of each Department), or the officer concerned (as the case may be), shall submit a report as provided by Rules 53 and 54 and the Financial Commissioner will issue instructions.

*H.—Appeals to the Privy Council.*

Appeals to Her Majesty in Council.

57. Appeals to Her Majesty in Council will be dealt with, under the special orders of the Financial Commissioner, by the Government Advocate.

*I.—Intervention.*

Procedure when intervention deemed necessary

58. If it appear advisable to a Deputy Commissioner or to the Head of any Department, on the representation of any subordinate officer, or otherwise, to intervene in any suit to which the Government has not been made a party, an application for a postponement of the case shall, if necessary, be made to the Court by or through the Deputy Commissioner of the district in which the Court has jurisdiction. The Deputy Commissioner or other officer concerned shall then submit a full report to the Financial Commissioner, showing clearly his reasons for considering such intervention necessary, and in particular, stating how the decision of the suit is likely in his opinion to affect the interests of Government.

Financial Commissioner will issue orders in the matter.

59. The Financial Commissioner will decide whether the Government shall intervene or not, and if so, will arrange as to the person by whom the necessary action shall be taken.

When intervention ordered, all these rules to be deemed applicable.

60. If the Financial Commissioner decide that it is necessary to intervene, and the Government be made a party to the suit, all the rules for the conduct of Government suits shall, so far as may be, be deemed applicable to the case.

*K.—Copies of Judgments, &c.*

Copies what and to whom to be sent.

61. Immediately on the termination of any suit a copy of the judgment and decree or other final order of the Court shall be procured through the Deputy Commissioner without delay by the person who conducted it for Government or for the officer concerned. If the suit was conducted by a private practitioner specially retained for that purpose by Government, and related to a matter connected with any particular Department or Departments, not within the control of the Deputy Commissioner, or was connected with a public officer, the Head of the Department (or of each Department), or the officer concerned, as the case may be, shall forthwith apply to the Deputy Commissioner for the said copies, and these shall be furnished to him or them (as the case may be) by the Deputy Commissioner as soon as possible.

*L.—Report of Result of Suits, &c*

Result of suits, &c., by and to whom report to be submitted.

62. The person who under the last preceding rule receives the copies therein specified shall immediately submit a report of the result of the suit for the information of the Financial Commissioner. This report shall be submitted through the Government Advocate. When the result is adverse to Government, and will involve a disbursement of public money, the report should state when the money will be required, to enable the Financial Commissioner to make arrangements accordingly*.

*M.—Execution of Decrees.*

Settlement of adverse decrees.

63. Whenever it has been determined not to contest further a decision which is either wholly or partly adverse to Government, the Deputy Commissioner, or other officer concerned, shall at once, in consultation with the Government Advocate, pay into the Court whose duty it is to execute the decree all moneys payable under the decree, care being taken that the decree is fully satisfied within the time fixed for that purpose under Section 429 of the Civil Procedure Code.

Where the decree is against a public officer, in respect of an act purporting to be done by him in his official capacity, it will rest with him to satisfy the same within the time so fixed.

Procedure to obtain execution of a decree in favour of Government.

64. Immediately on a decree being given in favour of Government or of a public officer when the suit has been brought or defended at the public expense, the Deputy Commissioner, or other officer concerned, shall proceed, in consultation with the Government Advocate, to take steps for the recovery of costs and of the amount, if any,

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* Financial Commissioner's No. 2942 of 2nd May 1878 to Government Advocate.

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decreed, unless for special reasons (which he should report to the Government Advocate for the orders of the Financial Commissioner) he deems it undesirable that any such steps should be taken, or that they should be taken immediately.

Procedure in case of appeal.

65. If an appeal is instituted, and the execution of the decree is stayed by order of the Court, the interval before the decision of the appeal should be made use of in making inquiries as to the property of the judgment-debtor.

Deputy Commissioner to render assistance when any other officer is concerned.

66. When the officer concerned is not the Deputy Commissioner, or a subordinate of the Deputy Commissioner, he may apply to the Deputy Commissioner to assist him in prosecuting the necessary inquiries as to the property of the judgment-debtor.

Security when execution is stayed.

67. The provisions of Section 545 of the Civil Procedure Code are, ordinarily, sufficient to prevent any fraudulent disposal of property by the judgment-debtor during the time gained by an appeal; but the Deputy Commissioner or other officer concerned, in consultation with the Deputy Commissioner, shall see that the security taken by the Court is sufficient, petitioning the Court to be allowed to execute the decree at once, if he considers that the security offered is not valid or sufficient.

Prevention of fraudulent disposal of property.

68. If such application be refused, the Deputy Commissioner, or other officer, in consultation as aforesaid, shall endeavour to keep a watch on the property of the debtor, so as to prevent any fraudulent alienation or concealment of it.

Quarterly return to be sent by Deputy Commissioners to the Government Advocate.

69. Deputy Commissioners shall send to the Government Advocate on the 1st January, 1st July and 1st October in each year a quarterly return in the following form, showing the progress made in realising amounts due under decrees to Government in the districts to which they are respectively appointed:—

| Name of Court and No and year of suit. | Parties' Names. | | Amount to be realised. | | | Amount realised. | | | Balance yet to be recovered. | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|
| | Plaintiff. | Defendant. | Amount of claim decreed. | Amount of costs decreed. | Total. | Previously. | During the quarter under report. | Total. | | |
| | | | | | | | | | | |

In the column of remarks any reasons for delay or for want of progress in the recovery of dues should be fully explained; and when any sums are considered to be absolutely irrecoverable, the Deputy Commissioner shall report the amount, submitting at the same time a clear and detailed account of the steps which have been taken for the satisfaction of the decrees, and of the causes which have rendered their satisfaction impossible, to the Government Advocate, who shall submit the same to the Financial Commissioner for orders. If the Financial Commissioner direct that any such sum be written off as irrecoverable, it shall cease to be shown by the Deputy Commissioner in his quarterly return.

Government Advocate to report to Financial Commissioner if satisfactory progress is not made in recovery of dues.

70. Should the Government Advocate consider that the progress made in the recovery of moneys due to Government under decrees is unsatisfactory, he shall bring the matter to the notice of the Financial Commissioner for orders.

Recoveries out of Court.

71. Any sum due to Government under a decree may, if convenient, be recovered otherwise than through the agency of the Courts; but the Deputy Commissioner shall, under Section 258 of the Civil Procedure Code, certify every such recovery to the Court.

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Purchase of judgment-debtor's property for Government forbidden.

72. The practice of deputing Government servants to bid on behalf of Government at Court auctions with a view to purchasing the property of judgment-debtors by whom money is due to Government is generally speaking, objectionable, as it is likely to involve Government in much litigation of a doubtful character, and it should never be resorted to except with the special sanction of the Financial Commissioner, to be obtained through the Government Advocate.

*N.—Accounts.*

Deputy Commissioners to provide necessary funds up to Rs. 500 for suits instituted on behalf of Government.

73. When sanction has been given to institute a suit at the public expense, the Deputy Commissioner will provide the necessary funds for stamps and other expenses in the same way as he provides for his ordinary contingencies, provided that the amount does not exceed Rs. 500 for the whole costs of an original suit. Where the expense is likely, on the whole, to be above Rs. 500, this should be stated in the first report of the case that is sent up, and sanction to the expenditure will be conveyed by the Financial Commissioner at the same time that sanction is given to institute the suit.

Expenditure in excess of Rs. 500 to be referred to Financial Commissioner for sanction.

74. Further items that may arise will be dealt with in the same way. All expenditure in excess of Rs. 500 in one suit will be referred to the Financial Commissioner for sanction.

All such items to be denoted as on account of "Law charges."

75. All such items, whether sanctioned separately or included in contingent bills, will be denoted as on account of "Law charges" of the Department concerned.

All recoveries to be credited to the Department concerned.

76. All recoveries made, whether on account of the principal sum sued for or costs, will be credited to the Department concerned.

When money has been advanced from other sources the earliest opportunity is to be taken to adjust such advances.

77. In urgent cases where money may have been advanced from other sources, the earliest opportunity should be taken for adjusting such advances in accordance with these rules.

Procedure when pleaders or other agents not connected with Government are employed.

78. When it is necessary to employ pleaders or other agents not connected with Government, special arrangements as to their remuneration must be made in each case under sanction of the Financial Commissioner.

*O.—Returns.*

Statistics of Government litigation.

79. The statistics of Government litigation will be compiled in the Government Advocate's office, and will be submitted to the Financial Commissioner for incorporation with the Annual Revenue Report. Deputy Commissioners will furnish annual statements through Commissioners. These should reach the Government Advocate's office not later than 1st May. Information connected with the suits of other Departments will be incorporated in Deputy Commissioners' statements, and the officers concerned will furnish them to Deputy Commissioners accordingly.

Returns to be rendered by Deputy Commissioners.

80. The Annual Returns rendered by the Deputy Commissioners will be the following, and will be in the same form as at present:—

(1) Statement of Civil suits to which Government was a party, showing names of litigants, cause of action, and result of suit and appeal, if any.

(2) Detailed statement of outstanding decrees passed in favour of Government during the year, showing realizations and outstandings.

(3) Detailed account showing expenditure and receipts in Government suits. Each suit will be shown separately in this statement, and not merely the totals, both as regards receipts and disbursements.

In addition to the above, a quarterly detailed statement of outstanding decrees will be furnished by Deputy Commissioners to the Government Advocate for the first three quarters of the official year, as directed in Rule 69.

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*P.—Miscellaneous.*

Suits in the Settlement Department or on the Revenue side.

81. In the case of suits instituted by or against Government in Revenue or Settlement Courts, the functions assigned in these rules to the Financial Commissioner will devolve on the Secretary to Government, to whom accordingly all references and communications directed in the above rules to be made to the Financial Commissioner should be addressed.

Land acquisition cases.

82. Cases which are referred to the Civil Court under Section 15 of the Land Acquisition Act, X of 1870, need not, as a general rule, be referred under the foregoing rules to the Financial Commissioner through the Government Advocate for orders, but the Government Advocate may be consulted in the usual manner on any points that may arise in respect of such cases involving legal doubts or difficulties.

(*Punjab Government Notification No.* 962½, *dated* 25*th November* 1885, *Punjab Gazette of* 3*rd December* 1885, *Part I, page* 1109, *as amended by No.* 335, *dated* 23*rd March* 1886, *Punjab Gazette of* 25*th idem, Part I, page* 145, *and No.* 970, *dated* 5*th October* 1887, *Punjab Gazette of* 6*th idem, Part I, page* 518).

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## ACT No. XIX of 1882.

(*Passed on the* 5*th October* 1882).

An Act to establish and incorporate the University of the Punjab.

Preamble.

WHEREAS an Institution styled at first the Lahore University College, but subsequently the Punjab University College, was established at Lahore in the year 1869, with the special objects of promoting the diffusion of European science, as far as possible, through the medium of the vernacular languages of the Punjab, improving and extending vernacular literature generally, affording encouragement to the enlightened study of the Eastern classical languages and literature, and associating the learned and influential classes of the Province with the officers of Government in the promotion and supervision of popular education;

But it was at the same time provided that every encouragement should be afforded to the study of the English language and literature, and that, in all subjects which could not be completely taught in the vernacular, the English language should be regarded as the medium of examination and instruction;

And whereas this Institution was, by a Notification, No. 472, dated 8th December, 1869, published in the *Punjab Government Gazette* of the twenty-third day of December 1869, declared to be so established, in part fulfilment of the wishes of a large number of the Chiefs, Nobles, and influential classes of the Punjab, and it is now expedient, the said Institution having been attended with success, further to fulfil the wishes of the said Chiefs, Nobles and influential classes, by constituting the said Institution a University for the purpose of ascertaining, by means of examination or otherwise, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and for the purpose of conferring upon them academical degrees, diplomas, Oriental literary titles, licenses, and marks of honour;

And whereas it is also expedient that the University so constituted should be incorporated, and that the property, moveable, and immoveable, which has been hitherto held by, or in trust for, the said Institution should become the property of the University, subject to all existing trusts as to the manner in which and the purposes to which, that property or any part thereof is to be applied;

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It is hereby enacted as follows :—

Short title and commencement.

1. This Act may be called the Punjab University Act, 1882 ; and it shall come into force at once.

Establishment and incorporation of University.

2. (1) A University shall be established at Lahore ; and the Governor-General for the time being shall be the Patron of the University.

(2) The University shall consist of a Chancellor, a Vice Chancellor, and such number of Fellows as may be determined in manner hereinafter provided.

(3) The University shall be a Body Corporate by the name of the University of the Punjab, having perpetual succession and a common seal, with power to acquire and hold property, moveable or immoveable, to transfer the same, to contract, and to do all other things necessary for the purposes of its constitution.

(4) The University shall come into existence on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.

NOTE.—In accordance with clause 4 of Section 2 of the Punjab University Act of 1882, the Hon'ble the Lieutenant-Governor is pleased to appoint Saturday, the 14th instant, as the day on which the Punjab University shall come into existence.—(*Notification No.* 383 S., *dated* 13*th October* 1882, *Punjab Gazette Extraordinary of same date*).

Property of Punjab University College to vest in University.

3. All the property, moveable and immoveable, held at the date at which the University comes into existence by or in trust for the Punjab University College, shall, on that date, become the property of the University, to be administered by it for the purposes of the University, subject to all existing trusts as to the manner in which, and the purposes to which, that property or any part thereof is to be applied.

Chancellor.

4. The Lieutenant-Governor of the Punjab for the time being shall be the Chancellor of the University ; and the first Chancellor shall be the Hon'ble Sir Charles Umpherston Aitchison, Knight Commander of the Most Exalted Order of the Star of India, Companion of the Order of the Indian Empire, Doctor of Laws.

Vice-Chancellor.

5. (1) The Vice-Chancellor shall be such one of the Fellows as the Chancellor may, from time to time, appoint in this behalf.

(2) Except as provided in sub-section (4), he shall hold office for two years from the date of his appointment, and on the expiration of his term of office may be re-appointed.

(3) But if a Vice-Chancellor leaves India without the intention of returning thereto, he shall thereupon cease to be Vice-Chancellor.

(4) James Broadwood Lyall, Esquire, of the Bengal Civil Service, and at present Financial Commissioner of the Punjab, shall be deemed to have been appointed the first Vice-Chancellor ; and his term of office shall, subject to the provisions of sub-section (3), expire on the last day of December, 1884.

Fellows.

6. The following persons shall be Fellows, namely :—

(*a*) every person who has held the office of Chancellor, and all persons for the time being holding such offices under Government as the Local Government may, from time to time, by notification in the official Gazette, specify in this behalf ;

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(*b*) persons whom the Chancellor may, from time to time, appoint by name as being eminent benefactors of the Punjab University, original promoters of the movement in favour of the establishment of the Punjab University College, or persons distinguished for attainments in Literature, Science, or Art, or for zeal in the cause of education ;

(*c*) such persons (if any) as may, from time to time, be elected by the Senate of the University, and approved by the Chancellor ; and

(*d*) the representatives, for the time being with the Government of the Punjab, of such Chiefs (if any) of territories not comprised in British India as the Local Government may, from time to time, by notification in the official Gazette, specify in this behalf :

Provided that—

(1) the whole number of the Fellows holding office under clauses (*a*), (*b*) and (*c*), exclusive of the Vice-Chancellor, shall never be less than fifty ; and

(2) the number of persons for the time being elected under clause (*c*) shall never exceed the number for the time being appointed under clause(*b*).

*Explanation.*—The succession to an office notified under clause (*a*), of a person elected under clause (*c*) or appointed under clause (*b*), does not affect his position for the purposes of the second clause of this proviso.

NOTES.—(*a*). Under the provisions of Section 6 (*a*) of the Punjab University Act, 1882, His Honor the Lieutenant-Governor is pleased to specify the undermentioned offices under Government, the holders of which for the time being will be Fellows of the Punjab University, *viz* :—

(1). The Deputy Surgeon-General, Lahore Division.

(2). The Principal, Central Training College, Lahore.

(3). The Principal, Mayo School of Industrial Art, Lahore.

(4). The Civil Surgeon of Lahore.

(5). The Secretary to Government, Punjab, Public Works Department (General).

(6). The Joint-Secretary to Government, Punjab, Public Works Department (Irrigation Branch).

(*Notification No.* 181, *dated* 30*th July* 1883, *Punjab Gazette of* 2*nd August* 1883, *Part I*, p. 461).

(7). The second Financial Commissioner, Punjab.

(*No.* 352, *dated* 19*th November* 1884, *Punjab Gazette of* 20*th idem, Part I, p.* 1136).

(*b*). In accordance with Section 6, clause (*d*) of the Punjab University Act, 1882, the Lieutenant-Governor is pleased to declare that the representatives, for the time being with the Government of the Punjab, of the Chiefs named below shall be Fellows of the Punjab University :—

The representative of His Highness the Maharaja of Kashmir.
" " of His Highness the Maharaja of Patiala.
" " of His Highness the Nawab of Bahawalpur.
" " of His Highness the Raja of Jind.
" " of His Highness the Raja of Nabha.
" " of His Highness the Raja of Kapurthala.

(*Notification No.* 386 S., *dated* 14*th October* 1882, *Punjab Gazette Extraordinary of same date*).

First Fellows.

7. (1) The offices specified in Part I of the schedule hereto annexed shall be deemed to have been specified in a notification issued under section six, clause (*a*) ; and

(2) the persons named in Part II of that schedule shall, except for the purposes of the second clause of the proviso to section six, be deemed to have been appointed Fellows under clause (*b*) or (*c*) of section six.

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Cancellation and vacation of appointment of Fellow.

8 (1) The Chancellor may, with the consent of not less than two-thirds of the members of the Senate for the time being in India, cancel the appointment of any Fellow appointed under section six, clause (*b*) or (*c*); and the Local Government may, whenever it thinks fit, by notification in the official Gazette, cancel or amend any notification issued under section six, clause (*a*) or clause (*d*).

(2) If any Fellow appointed under section six, clause (*b*) or clause (*c*) and not being a person named in Part II of the Schedule to this Act, leaves India without the intention of returning thereto, or is absent from India for more than four years, he shall thereupon cease to be a Fellow.

Constitution and powers of Senate.

9. (1) The Chancellor, Vice-Chancellor, and Fellows for the time being shall form the Senate of the University.

(2) The Senate shall have the entire management of, and superintendence over, the affairs, concerns, and property of the University, and shall provide for that management, and exercise that superintendence, in accordance with the Statutes, Rules, and Regulations for the time being in force under this Act.

Chairman at meetings of Senate.

10. At every meeting of the Senate, the Chancellor, or, in his absence, the Vice-Chancellor, or, in the absence of both, a Fellow chosen by a majority of the Fellows present at the meeting, shall preside as Chairman.

Proceedings at meetings of Senate.

11. Every question which comes before the Senate at a meeting shall be decided by a majority of the votes of the members present and of such members for the time being in India as may have sent proxies in accordance with the rules for the time being in force under this Act; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote:

Provided that no question shall be decided at any such meeting unless fourteen members at the least, besides the Chairman, are present at the time of the decision.

Appointment of Syndicate, Faculties, examiners, and officers.

12. Subject to the statutes, rules, and regulations for the time being in force under this Act, the Senate may, from time to time,—

(1) constitute an Oriental Faculty and Faculties of Arts, Law, Science, Medicine, and Engineering;

(2) appoint, or provide for the appointment of a Syndicate;

(3) appoint, suspend, and remove a Registrar;

(4) appoint, suspend, and remove, or provide for the appointment suspension, and removal of,—

(*a*) examiners, officers, and servants of the University, and

(*b*) professors and lecturers in connection with the University.

The first Registrar shall be Gottlieb William Leitner, Esquire, Master of Arts, Doctor of Laws, Barrister-at-Law.

Functions of Syndicate.

13. The Syndicate shall be the executive committee of the Senate, and may discharge such functions of the Senate as it may be empowered to discharge by the statutes, rules, and regulations for the time being in force under this Act.

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Power to confer degrees, &c., after examination.

**14.** Subject to the statutes, rules, and regulations for the time being in force under this Act, the Senate may confer on all persons who have passed such examinations in the University and fulfilled such other conditions as may be prescribed under this Act—

(*a*) in the Oriental Faculty, the degrees of Bachelor, Master, and Doctor of Oriental Learning;

(*b*) in the Faculty of Arts, the degrees of Bachelor and Master of Arts and Doctor of Literature:

And, if empowered by the Governor-General in Council in this behalf,—

(*c*) in the Faculty of Law, the degrees of Bachelor and Doctor of Laws;

(*d*) in the Faculty of Science, the degrees of Bachelor and Doctor of Science;

(*e*) in the Faculty of Medicine, the degrees of Bachelor and Doctor of Medicine;

(*f*) in the Faculty of Engineering, the degrees of Bachelor and Master of Civil Engineering.

The Senate may also confer—

(*g*) such diplomas, Oriental literary titles and licenses as may be perscribed by any rules for the time being in force under this Act, and

(*h*) such marks of honour for a high degree of proficiency in the different branches of Literature, cience, and Art as may be prescribed by those rules.

Power to confer degrees on persons who have passed examinations at the Punjab University College in 1882.

**15.** Notwithstanding anything in section fourteen, the Senate may confer degrees, diplomas, Oriental literary titles, licenses, or marks of honour, as provided by that section, on any persons who have in the year 1882, before the passing of this Act, passed such examinations prescribed by the Punjab University College as may be sufficient to satisfy the Senate that they are persons qualified in point of learning to obtain those degrees, diplomas, Oriental literary titles, licenses, or marks of honour.

Power to confer honorary degrees.

**16.** Notwithstanding anything hereinbefore contained, but subject to the confirmation of the Chancellor, the Senate may, in the Oriental Faculty and the Faculties of Arts and Law, grant the degree of Doctor to any person without requiring him to undergo any examination for that degree:

Provided that—

(1) a resolution has been passed at a meeting of the Senate that the person is, by reason of eminent position and attainments, a fit and proper person to receive that degree; and

(2) in the case of degrees in the Faculty of Law, the Senate has been empowered by the Governor-General in Council to grant such degrees after examination.

Power to levy fees.

**17.** The Senate may charge such reasonable fees for entrance into the University and continuance therein, for admission to the examinations of the University, for attendance at

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any lectures or classes in connection with the University, and for the degrees to be conferred by the University, as may be imposed by the rules or regulations for the time being in force under this Act.

Power to make statutes, rules, and regulations.

18. (1) The Senate shall, as soon as may be after the passing of this Act, and may from time to time thereafter, make statutes, rules and regulations consistent with this Act touching—

(*a*) the mode and time of convening the meetings of the Senate and of transacting business thereat:

(*b*) the appointment, suspension, removal, duties, and remuneration of the Registrar, examiners, professors, lecturers, officers, and servants;

(*c*) the appointment, constitution, and duties of the Syndicate and the Faculties;

(*d*) the previous course of instruction to be followed by candidates for the examinations of the University;

(*e*) the examinations to be passed and the other conditions to be fulfilled by candidates for degrees;

(*f*) the examinations to be passed and the other conditions to be fulfilled by candidates for diplomas, Oriental literary titles, licenses, and marks of honour, respectively:

(*g*) the conduct of examinations for degrees, diplomas, Oriental literary titles, licenses, and marks of honour; and

(*h*) generally all matters regarding the University.

(2) All such statutes, rules, and regulations shall be reduced into writing, and sealed with the common seal of the University, and shall—

(*a*) in the case of statutes, and of rules and regulations made under clause (*e*) of this section, after they have been confirmed by the Local Government and sanctioned by the Governor-General in Council, and

(*b*) in the case of all other rules and regulations, after they have been sanctioned by the Local Government,

be binding on all persons, members of the University, or admitted thereto, and all candidates for degrees, diplomas, Oriental literary titles, licenses, and marks of honour.

(3) If, on the expiration of eighteen months from the date on which the University comes into existence, no statutes, rules, or regulations have been made and sanctioned, or (as the case may be) made, confirmed, and sanctioned, under the foregoing provisions of this section, touching a matter mentioned in sub-section (1), the Local Government may, by notification in the official Gazette, make such statutes, rules, or regulations touching that matter as it thinks fit: and, subject in the case of statutes and of rules and regulations touching the matters mentioned in clause (*e*) to the sanction of the Governor-General in Council, those statutes, rules, or regulations shall be deemed to have been made and sanctioned, or (as the case may be) made, confirmed, and sanctioned under sub-sections (1) and (2).

NOTE.—See the Notes at the end of the Act.

Duty of Local Government to enforce Act, statutes, rules, and regulations.

19. It shall be the duty of the Local Government to require that the proceedings of the University shall be in conformity with this Act and with the statutes, rules, and regulations for the time being in force under the same; and the Local Government may exercise all

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powers necessary for giving effect to its requisitions in this behalf, and may (among other things) annul, by a notification in the official Gazette, any such proceeding which is not in conformity with this Act and the said statutes, rules, and regulations.

Notifications in certain cases.

20. All appointments made under section five, all appointments made or cancelled under section six, clauses (*b*) and (*c*), and section eight, all degrees, diplomas, Oriental literary titles or licenses conferred under sections fourteen, fifteen and sixteen, and all statutes, rules, and regulations made under section eighteen, shall be notified in the official Gazette; wherein, also, the record of the proceedings of every meeting of the Senate shall be duly published.

Annual accounts

21. The accounts of the income and expenditure of the University shall be submitted once in every year to the Local Government for such examination and audit as the Local Government may direct.

Temporary provision as to statutes, rules, and regulations.

22. The statutes, rules, and regulations of the Punjab University College shall, so far as they are consistent with this Act, be deemed to be the statutes, rules, and regulations of the University, and shall remain in force for two years from the date on which the University comes into existence, unless they are sooner repealed by a statute made in accordance with section eighteen.

## THE SCHEDULE.

(*See Section* 7).

### PART I.

Offices to be deemed to have been specified under Section 6, clause (*a*):—

The Office of—

Judge of the Chief Court, Punjab;
Financial Commissioner of the Punjab;
Surgeon-General of the Punjab;
Commissioner of Lahore;
Commissioner of Delhi;
**Commissioner of Amritsar;*
Accountant-General of the Punjab;
Director of Public Instruction, Punjab;
Principal of the Lahore Government College;
Principal of the Lahore Medical School;
Inspector of Schools in the Punjab;
Deputy Commissioner of Lahore;
Deputy Commissioner of Delhi;
Deputy Commissioner of Amritsar.

### PART II.

Persons to be deemed to have been appointed Fellows under Section 6, clause (*b*) or (*c*):—

His Highness Maharaja Ranbir Singh, of Jammu and Kashmir, G.C.S.I., C.I.E., Counsellor of the Empress of India;

*Cancelled. See Notification No. 237, dated 23rd January 1886, *Punjab Gazette* of 4th, February 1886, C.G.O.

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His Highness Maharaja Rajindar Singh, of Patiala;
His Highness Nawab Sadik Muhammad Khan, of Bahawalpur, G.C.S.I.
His Highness Raja Raghbir Singh, of Jhind, G.C.S.I., C.I.E., Counsellor of the Empress of India;
His Highness Raja Hira Singh of Nabha, G.C.S.I.;
His Highness Raja Jagatjit Singh, of Kapurthala;
Raja Bije Sen, of Mandi;
Nawab Ibrahim Ali Khan, of Maler Kotla;
Raja Bikram Singh, of Faridkot;
Nawab Abdul Majid Khan;
Sardar Ajit Singh, Atariwala;
Rai Amin Chand, Sardar Bahadur;
Malaz-ul-Ulma Sardar Atar Singh, C.I.E., of Bhadaur;
Major-General Henry Prevost Babbage, Bengal Staff Corps, late Deputy Commissioner, Punjab;
David Graham Barkley, Esquire, M.A., Bengal Civil Service, Barrister-at-Law;
Deputy Surgeon-General Henry Walter Bellew, C.S.I.;
Reverend Edward Bickersteth, M.A.;
Charles Boulnois, Esquire, Barrister-at-Law, late Judge, Chief Court, Punjab;
Sardar Bikrama Singh, C.S.I., Ahluwalia;
Arthur Brandreth, Esquire, Barrister-at-Law, late of the Bengal Civil Service, and Judge, Chief Court, Punjab;
Surgeon-Major Thomas Edwin Burton Brown, M.D.;
John Scarlett Campbell, Esquire, late of the Bengal Civil Service, and Judge, Chief Court, Punjab;
Surgeon-Major William Center, M.D., M.A.;
Reverend Robert Clark, M.A.;
John Graham Cordery, Esquire, M.A., Bengal Civil Service;
The Hon'ble Henry Stuart Cunningham, M.A., Barrister-at-Law, Judge of the High Court, Calcutta;
Surgeon-Major Alexander Morrison Dallas;
Mansel Longworth Dames, Esquire, Bengal Civil Service;
Sir Robert Henry Davies, K.C.S.I., C.I.E., late Lieutenant-Governor of the Punjab and its Dependencies;
Colonel William George Davies, C.S.I.;
Deputy Surgeon-General Annesley Charles Castriot De Renzy, B.A.;
Sir Robert Eyles Egerton, K.C.S.I., C.I.E., Counsellor of the Empress, late Lieutenant-Governor of the Punjab and its Dependencies;
Dennis Fitzpatrick, Esquire, B.A., Bengal Civil Service, Barrister-at-Law;
Reverend C. W. Forman, D.D;
The Right Reverend Thomas Valpy French, D.D., Lord Bishop of Lahore;
Munshi Ghulám Nabi;
Surgeon-Major Robert Gray, M.B.;
Major Leopold John Henry Gray, C.S.I., Bengal Staff Corps;
Sir Lepel Henry Griffin, K.C.S.I., Bengal Civil Service;
Pandit Guru Parshád;
Sayyad Hádí Husain Khan;
Rájá Harbans Singh;
Kaur Harnám Singh, Ahluwalia;
Doctor Thomas Hastings, late Deputy Inspector-General of Hospitals:
Edward Piercy Henderson, Esquire, Bengal Civil Service, Barrister-at-Law;

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Surgeon-Major George Henderson, M.D. ;
Mir Hidayat Ali, Khán Bahadur ;
Lieutenant-Colonel William Rice Morland Holroyd;
Reverend W. Hooper, M.A. ;
Reverend T. P. Hughes, B.D. ;
Munshi Hukm Chand ;
Sodhi Hukm Singh ;
Denzil Charles Jelf Ibbetson, Esquire, B.A., Bengal Civil Service ;
Rájá Jahándád Khán, Khán Bahádur, Ghakkar ;
Aghá Kalbabíd ;
Fakír Sayyad Kamr-ud-dín ;
Rai Bahádur Kanhya Lál, C.E. ;
Khán Bahádur Khán Muhammad Shah ;
Bábá Khem Singh, C.I.E., Bedi ;
John Lockwood Kipling, Esquire ;
Surgeon Edward Lawrie, M.D. ;
Gottlieb William Leitner, Esquire, M.A., LL.D. ;
Thomas Crampton Lewis, Esquire, M. A. ;
Charles Robert Lindsay, Esquire, late of the Bengal Civil Service, and Judge, Chief Court, Punjab ;
James Broadwood Lyall, Esquire, Bengal Civil Service ;
General Robert Maclagan, R.E., late Secretary to Government, Punjab, Public Works Department ;
Colonel Charles Alexander McMahon ;
The Ven'ble Henry James Matthew, M.A., Archdeacon of Lahore ;
Colonel Julius George Medley, R.E. ;
Philip Sandys Melvill, Esquire, C.S.I., late of the Bengal Civil Service, and Governor-General's Agent, Baroda ;
John Andrew Erasmus Miller, Esquire ;
Pandit Motí Lál, Káthju ;
Khán Bahàdur Muhammad Barkat Ali Khán ;
Khalífa Sayyad Muhammad Hussain ;
Muhammad Hyat Khán, C.S.I. ;
Rai Mul Singh ;
Nasir Ali Khán, Kazilbásh ;
Bábu Navina Chandrá Rai;
Nawáb Nawázish Ali Khán ;
Major Edward Newbery ;
Edward O'Brien, Esquire, Bengal Civil Service ;
Henry Edmund Perkins, Esquire, Bengal Civil Service ;
Henry Meredith Plowden, Esq., B.A., Barrister-at-Law ;
Major-General Charles Pollard, R.E. ;
Baden Henry Baden-Powell, Esq., Bengal Civil Service ;
Edward Augustus Prinsep, Esquire, late of the Bengal Civil Service, and Settlement Commissioner, Punjab ;
Honorary Surgeon Rahim Khán, Khán Bahádur ;
Diwán Rám Náth ;
William Henry Rattigan, Esquire, M.A., PH.D., Barrister-at-Law ;
Pandit Rikhi Kesh ;
Rajá Sir Sahib Dyal, K.C.S.I. ;
Rai Bahadur Sáhib Singh ;
Leslie Seymour Saunders, Esquire, Bengal Civil Service ;
Brigade-Surgeon John Barclay Scriven, late Civil Surgeon, Lahore ;
David Simson, Esquire, late of the Bengal Civil Service, and Judge, Chief Court, Punjab ;

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John Sime, Esquire, B.A.;
Surgeon-General Charles Manners Smith, late of the Indian Medical Service;
John Watt Smyth, Esquire, Bengal Civil Service, Barrister-at-Law;
Charles Henry Spitta, Esquire, LL.B., Barrister-at law;
Thomas Henry Thornton, Esquire, D.C.L., C.S.I., late of the Bengal Civil Service, and Judge, Chief Court, Punjab;
Thomas William Hooper Tolbort, Esquire, Bengal Civil Service, Barrister-at-Law;
Charles Lewis Tupper, Esquire, B.A., Bengal Civil Service;
Major Isaac Peatt Westmoreland, R.E.;
Lieutenant-Colonel George Gordon Young;
William Mackworth Young, Esquire, M.A., Bengal Civil Service;
Maulvi Zia-ud-din Khán.

NOTES.—(*a*). Statutes, Rules and Regulations for the management of the affairs of the University of the Punjab have been published as Punjab Government Notification No. 134, dated 9th April 1884—(*Punjab Gazette of 10th idem, Part I, pp.* 391-459).

(*b*). For further Rules made by the Senate of the University and sanctioned by the Local Government, see Notification No. 348, dated 19th November 1884—(*Punjab Gazette of 20th idem, Part I, pp.* 1131—1136).

(*c*). Rules for the management of the Oriental College and School have been published as Punjab Government Notification No. 2 S., dated 27th May 1885—(*Punjab Gazette of 28th idem, Part I, pp.* 369—371).

(*d*). Revised Rules and Regulations relating to the Law School and Examinations in Law, were published as Notification No. 39, dated 31*st January* 1889—(*Punjab Gazette of 7th February* 1889, *Part I, p.* 57).

(*e*). Revised Financial Rules have been published as Notification No. 112, dated 9th August 1886—(*Punjab Gazette of 12th idem, Part I, pp.* 452—455).

(*f*). Revised Regulations for the degree of Master of Arts have been published as Notification No. 179, dated 9th December 1886—(*Punjab Gazette of same date, Part* I, *pp.* 676—680).

## ACT NO. XX of 1882.

*(Passed on the 26th October 1882).*

An Act to amend the law relating to the Government Paper Currency.

Preamble.

WHEREAS it is expedient to amend the law relating to the Government Paper Currency; It is hereby enacted as follows:—

*I.—Preliminary.*

Short title.

1. This Act may be called the Indian Paper Currency Act, 1882:

Local extent.

It extends to the whole of British India;

Commencement.

and it shall come into force on the passing thereof.

Act No. III of 1871 repealed.

2. (1) Act No. III of 1871 *(to consolidate and amend the law relating to the Government Paper Currency)* is hereby repealed.

(2) All appointments made, rules prescribed, notifications published, authorities conferred, securities purchased, and notes issued under the said Act or any Act thereby repealed, shall, if in force, undisposed of, or in circulation when this Act comes into force, be deemed to be respectively made, prescribed, published, conferred, purchased, and issued under this

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Act. And all references made to any portion of the Indian Paper Currency Act, III of 1871, or any Act thereby repealed, in Acts or Regulations passed before this Act comes into force, shall be deemed to be made to the corresponding portion of this Act.

*II.—The Department of Paper Currency.*

Department of Paper Currency.

**3.** (1) There shall continue to be a Department of the public service, whose function shall be the issue of promissory notes of the Government of India, payable to bearer on demand, for such sums, not being less than five rupees, as the Governor-General in Council, from time to time, directs.

(2) Such notes shall be called currency notes.

(3) The Department shall be called the Department of Paper Currency.

NOTE.—In exercise of the power conferred by the eighth clause of the twenty-fifth section of Act III of 1871 the Governor-General in Council has revoked the Notification No. 4201, dated 9th November 1872.

And in exercise of the power conferred by the third section of the Act, the Governor-General in Council has directed that Promissory Notes of the Government of India, payable to bearer on demand, shall be issued by the Department of Issue for the following sums :—

| | |
|---|---|
| Five Government Rupees. | One hundred Government Rupees. |
| Ten Government Rupees. | Five hundred Government Rupees. |
| Twenty Government Rupees. | One thousand Government Rupees. |
| Fifty Government Rupees. | Ten thousand Government Rupees. |

And in exercise of the power conferred by the third clause of the twenty fifth section of the said Act, the Governor-General in Council has declared that notes for the sums above noted shall be issued at all offices of issue appointed under the Act.

This notification shall come into force on the 17th day of January 1874.—(*Notification No. 4035, dated 31st December 1873—Punjab Gazette of 8th January 1874*).

Head Commissioner.

Commissioners for Madras, Bombay and Rangoon.

**4.** At the head of the Department there shall be an officer called the Head Commissioner of Paper Currency, and there shall be three other officers, called, respectively, the Commissioner of Paper Currency for Madras, the Commissioner of Paper Currency for Bombay, and the Commissioner of Paper Currency for Rangoon.

Power to establish Circles of Issue, &c.

**5.** The Governor-General in Council may from time to time, by order notified in the *Gazette of India*,—

(*a*) establish districts, to be called Circles of Issue, four of which circles shall include the towns of Calcutta, Madras, Bombay, and Rangoon, respectively,

(*b*) appoint in each circle some one town to be the place of issue of currency notes, as hereinafter provided,

(*c*) establish in each such town an office or offices of issue,

(*d*) establish in any town situate in any circle an office, to be called a Currency Agency, and

(*e*) declare that, for the purposes of this Act, any town (other than Calcutta, Madras, Bombay, or any town situate in British Burma), in which an office of issue is established, shall be deemed to be situate within such Presidency as is specified in the order.

NOTES.—(*a*). "With a view to afford increased facilities to the public in obtaining cash for Government Currency Notes at important places where at present no Paper Currency Offices exist, the Governor-General in Council has determined to establish Agencies of the Paper Currency Department at certain selected stations, which will, from time to time, be notified in the *Gazette*.

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"2. The Agencies will in every case be placed the Government Treasury, and will be under the superintendence of the Treasury Officer.

"3. A limited amount of Notes and Coin will be supplied to each from the head office of the Circle of Issue, and all applications for exchange, whether for Notes or Silver Coin, will be granted without restriction so far as these funds permit.

"4. There is no legal obligation to cash any Notes at these Agencies, but they are established in order to provide facilities for exchange to the public beyond the requirements of the law." –(*No.* 416, *dated* 20*th January* 1871—*Gazette of India of* 21*st idem, p.* 34).

(*b*). "7. It is of very great importance, however, that it should be fully made known that while the Government is anxious to afford every facility for the encashment of notes at the subordinate treasuries in the interior of the country, cash for notes can only be *demanded* at the Office of Issue, and at that of the Presidency town to which the Office of Issue belongs.

"8. If this be not well understood, the failure of any subordinate treasury on an emergency to give cash for a note might be regarded as a default on the part of the Government, and might exercise a very prejudicial effect in discrediting the notes in the general estimation of the people."—(*Extract from a despatch from the Secretary of State for India to the Government of India, No.* 89, *dated* 23*rd March* 1871—*Gazette of India of* 20*th May* 1871).

(*c*). In exercise of the power conferred upon him by Section 5 of the Indian Paper Currency Act, 1882, the Governor-General in Council is pleased to constitute the territories administered by the Chief Commissioner of British Burma a Circle of Issue for the purposes of the said Act, with effect from 1st August 1883, to appoint the town of Rangoon to be the place of issue of Currency notes for the said Circle, and to establish an Office of Issue in the town of Rangoon.

And in exercise of the power conferred by Sections 4 and 8 of the said Act, the Governor-General in Council is pleased to appoint the Comptroller, British Burma, for the time being, to be the Commissioner of Paper Currency for Rangoon.—(*Government of India Notification No.* 2275, *dated* 24*th July* 1883, *Gazette of India of* 28*th idem*).

Deputy Commissioners and Currency Agents.

**6.** For each Circle of Issue, other than those which include the towns of Calcutta, Madras, Bombay, and Rangoon, there shall be an officer, called the Deputy Commissioner of Paper Currency, and for each Currency Agency an officer, called the Currency Agent.

Subordination of Commissioners, &c.

**7.** For the purposes of this Act,

(*a*) the Commissioners of Paper Currency for Madras, Bombay, and Rangoon, and the Deputy Commissioners of Paper Currency in the Presidency of Fort William in Bengal, shall be subordinate to the Head Commissioner of Paper Currency ; and

(*b*) the Deputy Commissioners of Paper Currency in the Presidencies of Fort St. George and Bombay, and in the Province of British Burma, shall be subordinate to the Commissioners of Paper Currency for Madras, Bombay, and Rangoon, respectively.

(*c*) The Currency Agent at any town shall be subordinate to the Head Commissioner, Commissioner, or Deputy Commissioner, as the case may be, of Paper Currency for the circle of issue in which that town is situate.

Appointment, suspension and removal of officers.

**8.** All officers under this Act shall be appointed, and may be suspended or removed, by the Governor-General in Council.

## *III.—Supply and Issue of Currency Notes.*

Head Commissioner to provide and distribute currency notes.

**9.** (1) The Head Commissioner shall provide currency notes of the denominations prescribed under this Act, and shall supply the Commissioners and the Currency Agents subordinate to him, and the Deputy Commissioners, with such notes as they need for the purposes of this Act.

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(2) The Commissioners and Deputy Commissioners shall supply the Currency Agents subordinate to them, respectively, with such notes as those Agents need for the purposes of this Act.

(3) Every such note shall bear upon it the name of the town from which it is issued.

Signatures to notes.

10. (1) The name of the Head Commissioner, of one of the Commissioners, of a Deputy Commissioner, or of some other person authorized by the Head Commissioner, or by one of the Commissioners, to sign currency notes, shall be subscribed to every such note, and may be impressed thereon by machinery.

(2) Names so impressed shall be taken to be valid signatures.

Issue of notes for silver by Head Commissioner, Commissioners, and Deputy Commissioners.

11. The Head Commissioner, the Commissioners, and the Deputy Commissioners shall, in their respective Circles of Issue, on the demand of any person, issue from the office or offices of issue established in their respective circles, currency notes of the denominations prescribed under this Act, in exchange for the amount thereof—

(*a*) in current silver coin of the Government of India,

(*b*) in current silver coin made under the Portuguese Convention Act, 1881,

(*c*) in current silver coin made under the Native Coinage Act, 1876, as to which coin a declaration has been made under Section 3 of that Act; or

(*d*) in silver bullion or foreign silver coin, not being coin of the descriptions mentioned in clauses (*b*) and (*c*), at the rate of nine hundred and seventy-nine rupees per one hundred and eighty thousand grains of silver fit for coinage and of the standard fineness prescribed by the Indian Coinage Act, 1870:

Provided that in all places where there is no Mint of the Government of India, any such Head Commissioner, Commissioner, or Deputy Commissioner may refuse to issue notes in exchange for the bullion or coin receivable under clause (*d*).

Issue of notes for silver by Currency Agent.

12. Any Currency Agent to whom notes have been supplied under section nine may, if he thinks fit, on the demand of any person, issue from his agency any such notes in exchange for the amount thereof in any coin specified in clause (*a*), clause (*b*) or clause (*c*) of section eleven.

Issue of notes for gold.

13. The Governor-General in Council may, from time to time, by order notified in the *Gazette of India*, direct that currency notes, to an extent to be specified in the order, not exceeding one-fourth of the total amount of issue represented by coin and bullion as provided by this Act, shall be issued at such offices of issue as are named in the order, in exchange for gold coin of full weight of the Government of India, or for foreign gold coin or gold bullion, at the rates, and according to the rules and conditions, fixed by that order.

Melting and assaying bullion or coin received for notes.

14. (1) The Head Commissioner, Commissioners, and Deputy Commissioners may require any bullion or foreign coin received under section eleven, clause (*d*), or under section thirteen, to be melted and assayed.

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(2) Any loss of weight caused by such melting or assay shall be borne by the person tendering the bullion or coin.

Certificates for bullion or coin.

15. (1) Every person tendering bullion or foreign coin under section eleven, clause (*d*), or under section thirteen, and depositing it in any office of issue, shall, after the expiration of the time necessary for melting and assaying the same, be entitled to receive for it a certificate signed by the person authorized to issue the notes aforesaid.

(2) The certificate shall—

(*a*) acknowledge the receipt of the bullion or coin,

(*b*) state the amount of notes issued under this Act, or of such notes and cash, to which the holder is entitled in exchange for the bullion or coin, and

(*c*) state the interval on the expiration of which, if the certificate is presented to the office, the holder shall be entitled to receive that amount.

*IV.—Notes where legal tender and where payable.*

Notes where legal tender.

16. Within any of the said Circles of Issue, a currency note issued from any town in that circle shall be a legal tender for the amount expressed in that note, in payment or on account of—

(*a*) any revenue or other claim, to the amount of five rupees and upwards, due to the Government of India, and

(*b*) any sum of five rupees and upwards, due by the Government of India, or by any body corporate or person in British India :

Provided that no such note shall be deemed to be a legal tender by the Government of India at any office of issue.

NOTES.—(*a*). The provisions of the following Notifications are still in force :—"The Governor-General in Council directs that it be notified, for general information, that the payment of any sum of money which any one has to make to Government in any Department, can be made in Government Notes of any issue irrespective of Presidency or Circle, and that all Officers of Revenue, Customs, Tax Office, Railway, &c., are hereby authorized to receive payment in Notes of any issue irrespective of Presidency or Circle." (*No.* 4284, *dated* 22*nd October* 1869).

(*b*). "The Governor-General in Council is desirous of affording such increased facilities for the conversion of Currency Notes as can be given without imposing on the Government the cost of making remittances of specie.

"With this view, it is notified that, so far as may be practicable, due regard being had to the primary obligation to discharge in cash all Notes at the place of issue and at the principal Offices of Issue of the Presidency, the coin reserve at each Office of Issue will be held available for cashing Currency Notes of any Circle.

"The amount up to which each office of Issue is prepared to cash the Notes of other Circles will be notified daily at such Office for public information.

"It is hoped that the arrangements now made will admit of Notes of all Circles being ordinarily convertible at the Offices of Issue in the interior, and at one at least of the Presidency towns ; it cannot, however, be expected that the Offices of the two great towns, Calcutta and Bombay, between which places there is an active exchange will, under ordinary circumstances, be able at the same time to cash Notes other than those which by law they are bound to cash on presentation.

"It is further notified that the Head Commissioner of Currency at Calcutta and the Commissioners at Madras and Bombay have been authorized to sell drafts at their discretion on such offices of Issue as have accumulations of coin which it is desirable to reduce. Particulars as to the places on which drafts are available from time to time can be learnt on application to the officers named."—(*Notification No.* 104, *dated* 11*th January* 1871—*Gazette of India of* 14*th idem*).

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(c). "The Governor-General in Council has resolved that all officers receiving and paying on account of Government, Currency Notes of the denomination of 50 Rupees or upwards, shall register the name of the person from whom each note is received and to whom it is paid. It is believed that this is already very generally done. The object is that such assistance as is possible may be given in tracing lost Notes."—(*Notification No.* 433, *dated* 24*th January* 1871).

"In keeping up this Register, the Governor-General in Council observes that officers can record the names of the presenters or receivers of notes wherever they are known, and wherever the presenter or receiver voluntarily gives it. But they must not demand such information, nor put any question to the parties tendering or receiving notes."—(*Notification No.* 120, *dated* 28*th April* 1871).

Notes where payable.

**17.** A currency note shall be payable only—

(*a*) at the office or offices of issue of the town from which it has been issued, and

(*b*) in the case of notes issued from any town not situate in British Burma, also at the Presidency-town of the Presidency within which that town is situate.

Notes issued from Currency Agencies to be deemed to be issued from place of issue of circle.

**18.** For the purposes of sections sixteen and seventeen, notes issued from any Currency Agency shall be deemed to have been issued from the town appointed under section five to be the place of issue in the Circle of Issue in which that Agency is established.

*V.—Reserve.*

Coin and bullion received for notes to be kept as a reserve except amount fixed as herein provided.

**19.** The whole amount of the coin and bullion received under this Act, and under Act III of 1871, for currency notes shall be retained and secured as a reserve to pay those notes, with the exception of such an amount, not exceeding sixty millions of rupees, as the Governor-General in Council, with the consent of the Secretary of State for India, from time to time fixes.

NOTE.—"His Excellency the Governor-General in Council with the consent of the Secretary of State for India, has fixed sixty millions of rupees as the amount of bullion and coin to be invested in Government Securities pursuant to Section 17 of Act III of 1871."—(*No.* 3565, *dated* 16*th September* 1871).

Investment of such amount.

**20.** The amount so fixed shall be published in the *Gazette of India*, and the whole of such part thereof as the Governor-General in Council from time to time fixes, shall be invested in securities of the Government of India.

Appropriation of coin, bullion, and securities.

**21.** (1) The said coin, bullion, and securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said notes; and the said notes shall be deemed to have been issued on the security of the said coin, bullion, and securities, as well as on the general credit of the Government of India:

Provided that any silver, bullion, or coin received under section eleven, clause (*d*), may be sold or exchanged for silver coin of the Government of India, and that any gold coin or bullion received under section thirteen may be sold or exchanged for silver coin or bullion, to be so appropriated and set apart instead of the coin or bullion sold or exchanged.

(2) For the purposes of this section, silver bullion and coin shall be rated at ninety-eight rupees per eighteen thousand grains of standard fineness, and gold bullion and coin at the rates fixed by the Governor-General in Council under section thirteen.

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Trustees of securities purchased under Act.

22. The securities purchased under section twenty shall be held by the Head Commissioner and the Master of the Mint at Calcutta, in trust for the Secretary of State for India in Council.

Power to sell and replace securities.

23. (1) The Head Commissioner may, at any time when ordered so to do by the Governor-General in Council, sell and dispose of any portion of the above-mentioned investment.

(2) For the purpose of effecting such sales, the Master of the Mint at Calcutta shall, on a request in writing from the Head Commissioner, at all times sign and endorse the securities, and the Head Commissioner if so directed by the Governor-General in Council, may purchase securities of the Government of India to replace such sales.

Accounts of interest on securities.

24. (1) The interest accruing due on the securities purchased and held under this Act shall be entered in a separate account to be annually rendered by the Head Commissioner to the Governor-General in Council.

(2) The amount of the interest shall, from time to time, as it becomes due, be paid to the credit of the Government of India, under the head of "Profits of Notes Circulation."

(3) An account showing the amount of the profits and of the charges and expenses incidental thereto, shall be made up and published annually in the *Gazette of India.*

*VI.—Private Bills payable to Bearer on Demand.*

Prohibition of issue of private bills or notes payable to bearer on demand.

25. No body corporate or person in British India shall draw, accept, make, or issue any bill of exchange, hundi, promissory note, or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the bills, hundis, or notes payable to bearer on demand, of any such body corporate or of any such person:

Provided that cheques or drafts payable to bearer on demand or otherwise, may be drawn on bankers, shroffs, or agents, by their customers or constituents, in respect of deposits of money in the hands of those bankers, shroffs, or agents and held by them at the credit and disposal of the persons drawing such cheques or drafts.

Penalty for issuing such bills or notes.

26. (1) Any body corporate or person committing any offence under section twenty-five shall, on conviction before a Presidency Magistrate, or a Magistrate of the first class, be punished with a fine equal to the amount of the bill, hundi, note, or engagement in respect whereof the offence is committed.

Prosecutions.

(2) Every prosecution under this section shall be instituted by the Head Commissioner, Commissioner, or Deputy Commissioner, as the case may be, of Paper Currency for the Circle of Issue in which the bill, hundi, note, or engagement is drawn, accepted, made, or issued.

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## VII.—*Miscellaneous.*

Monthly abstracts of accounts.

27. An abstract of the accounts of the Department of Paper Currency, showing—

(*a*) the whole amount of currency notes in circulation,

(*b*) the amount of coin and bullion reserved, distinguishing gold from silver, and

(*c*) the nominal value of, and the price paid for, the Government securities held by the said Department,

shall be made up monthly by the Head Commissioner, and published, as soon as may be, in the *Gazette of India.*

Supplementary powers of the Government of India.

28. (1) The Governor-General in Council may, from time to time, by notification in the *Gazette of India,*—

(*a*) fix the amounts (not being less than five rupees) for which currency notes shall be issued :

(*b*) alter the limits of any of the Circles of Issue :

(*c*) declare the places at which currency notes shall be issued :

(*d*) fix the rates, rules, and conditions at and according to which gold may be taken in exchange for currency notes :

(*e*) fix the charge for melting and assaying bullion and foreign coin received for such notes :

(*f*) fix the interval on the expiration of which holders of certificates under section fifteen shall be entitled to receive such notes :

(*g*) regulate any matters relative to paper currency which are not provided for by this Act : and

(*h*) revoke or alter any notification previously published under this Act.

(2) Every notification under this section shall come into force on the day therein in that behalf mentioned, and shall have effect as if it were enacted in this Act :

(3) Provided that no notification under clause (*d*) of this section shall have effect until six months have elapsed from the date of its appearance in the *Gazette of India.*

NOTE.—For Rules made under the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1871, see Note (*a*) to Act XXIII of 1870, *ante*, p. 532.

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